

City Council Work Session
Tuesday, January 28, 2014
6:00 p.m.
Exhibit Hall – Rouss City Hall

AGENDA

1.0 Call to Order

2.0 Public Comments: (Each person will be allowed 3 minutes to address Council with a maximum of 10 minutes allowed for everyone)

3.0 Items for Discussion:

- 3.1 Presentation:** Comprehensive Annual Financial Report – Billy Robinson, Brown, Edwards & Company, LLP & Mary Blowe, Finance Director
- 3.2 Presentation:** Indian Alley and W. Cork St revisions to support Pocket Park – Phil Glaize, President, Discovery Museum & Tim Youmans, Planning Director (pages 3-7)
- 3.3 Presentation:** E. Cork St Gateway Enhancements- Tim Youmans, Planning Director (pages 8-9)
- 3.4 Presentation:** 2013 Downtown Events Evaluation – Jennifer Bell, Downtown Manager (pages 10-20)
- 3.5 R-2014-02:** Resolution – Authorize the refund of \$12,078.51 to Piedmont Medical Laboratory for prorated Business License Taxes, the refund of \$10,420.84 to Riddleberger Brothers, Inc. and the refund of \$46,811.11 to Integrity Home Mortgage Corp. for prorated and erroneously paid Business License Taxes – Ann Burkholder, Commissioner of the Revenue (pages 21-26)
- 3.6 O-2014-03:** AN ORDINANCE TO AMEND CHAPTER 8 AND CHAPTER 27 PERTAINING TO THE ESTABLISHMENT OF THE WINCHESTER ENTERPRISE ZONE AND ITS RELATED INCENTIVES – Jim Deskins, Director of Economic Redevelopment (pages 27-44)
- 3.7 R-2014-01:** Resolution – Authorizing the execution of the Winchester Enterprise Zone Local Incentives Grants Funding Agreement between the City of Winchester and the Winchester Economic Development Authority – Jim Deskins, Director of Economic Redevelopment (pages 45-67)
- 3.8 Presentation:** Update on the Taylor Hotel project – Jim Deskins, Director of Economic Redevelopment Director

3.9 Discussion: Storm Water Utility – Operation and Maintenance Needs – Perry Eisenach, Utilities Director (pages 68-74)

3.10 O-2013-40: AN ORDINANCE TO AMEND CHAPTER 9 – “WATER PROTECTION” OF THE WINCHESTER CITY CODE PERTAINING TO REGULATIONS OF THE VIRGINIA STORMWATER MANAGEMENT PROGRAM (*Implementation of applicable provisions of the Virginia Stormwater Management Plan*) – Perry Eisenach, Utilities Director (pages 75-142)

4.0 EXECUTIVE SESSION

4.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(3) AND (6) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY AND FOR THE PURPOSE OF DISCUSSION OF THE SUBJECT OF INVESTMENT OF PUBLIC FUNDS WHERE BARGAINING IS INVOLVED, AND WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED AND PURSUANT TO §2.2-3711(a) (29) FOR THE PURPOSE OF DISCUSSION OF THE AWARD OF A PUBLIC CONTRACT INVOLVING THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING INTERVIEWS OF BIDDERS OR OFFERORS, AND DISCUSSION OF THE TERMS AND SCOPE OF SUCH CONTRACT, WHERE DISCUSSION IN AN OPEN SESSION WOULD ADVERSELY AFFECT THE BARGAINING POSITION OR NEGOTIATING STRATEGY OF THE CITY AND PURSUANT TO §2.2-3711(A)(40) FOR THE PURPOSE OF DISCUSSION OF RECORDS EXCLUDED FROM CHAPTER 37 OF TITLE 2.2 OF THE CODE OF VIRGINIA PURSUANT TO SUBDIVISION 3 OF § 2.2-3705.6 AND PURSUANT TO §2.2-3711(A) (7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

5.0 Liaison Reports

6.0 Monthly Reports

- 6.1** Finance Department (pages 143-155)
- 6.2** Fire & Rescue Department (pages 156-159)
- 6.3** Police Department (pages 160)

7.0 Adjourn

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/28/14 (work session), CUT OFF DATE: 1/22/14
2 /11/14 (regular mtg)

RESOLUTION __ ORDINANCE __ PUBLIC HEARING

ITEM TITLE:

Presentation: Indian Alley & W. Cork Street Revisions to Support Pocket Park

STAFF RECOMMENDATION:

Staff recommends working with the Discovery Museum to secure approval of an ordinance to lease a portion of public right of way in order to undertake the improvements at Discovery Museum expense to provide a pocket park managed by the Discovery Museum.

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

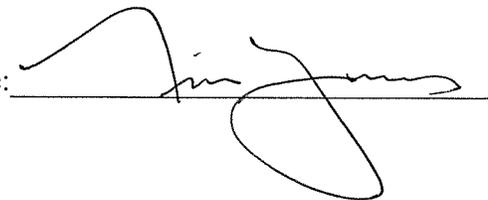
None

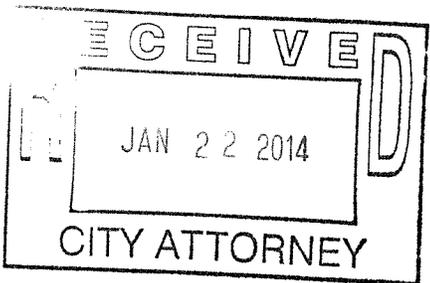
FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Public Services	PE		1/22/14
2. City Attorney	AW		1/22/2014
3. City Manager	DI		1-23-14
4. Clerk of Council			

Initiating Department Director's Signature:  1/22/14
(Planning)



APPROVED AS TO FORM:


CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: January 21, 2014
Re: Indian Alley & W. Cork St Revisions to Support Pocket Park

THE ISSUE:

The Shenandoah Valley Discovery Museum proposes to make revisions to the intersection of Indian Alley and W. Cork Street beside their proposed museum. The revisions are intended to improve pedestrian safety and create a small pocket park where a dinosaur climbing structure would be provided.

RELATIONSHIP TO STRATEGIC PLAN:

Goal #3- Continued Revitalization of Historic Old Town
Goal #1- Grow the Economy (Objective#1: *More Tourists coming to experience Winchester*)

BACKGROUND:

The City received a request from representatives of the Discovery Museum to make adjustments to the blind intersection at the NE corner of the proposed Discovery Museum where Indian Alley approaches W. Cork St from the south. The request is outlined in an undated proposal titled: "Proposal for Indian Alley and Sidewalk, 19 W. Cork Street." Mr. Phil Glaize will make a presentation on behalf of the Discovery Museum.

The proposal has been reviewed by staff from: Planning, Public Services, Police, Fire & Rescue, Downtown Management, and the Parking Authority. Staff is supportive of the proposed changes.

BUDGET IMPACT:

Some revenue loss to WPA from removal of one or more parking spaces. Otherwise, none other than some costs associated with plan review and approval and construction management within the public right of way.

OPTIONS:

- 1) Approve the request and proceed with ordinance to lease public right-of-way.
- 2) Disapprove the request .
- 3) Defer further action at this time.

RECOMMENDATIONS:

Staff recommends Option #1.



Shenandoah Valley
**DISCOVERY
MUSEUM**

Our mission at the Shenandoah Valley Discovery Museum is to ignite creativity, spark curiosity and inspire learning in visitors of all ages by providing a rich variety of interactive, hands-on exhibits and programs that focus on the sciences, mathematics, the humanities and the arts.

Proposal for Indian Alley and Sidewalk 19 W. Cork Street

Objective:

To improve the safe passage of pedestrians crossing Indian Alley at Cork St., and to ensure the safe egress of traffic traveling north on Indian Alley entering Cork Street.

Intervention:

Alter the flow of vehicle traffic to improve driver visibility when entering Cork Street from the alley. Vehicles travelling north on Indian Alley will be diverted east into the Cork Street Parking lot where two exit options presently exist on Loudoun Street and on Cork Street. Drivers entering Cork Street from the lot have a clearer view of oncoming traffic from the west. Pedestrians are more readily apparent as they are not hidden by the blind spot presented by the museum's east wall. By making a right turn into the lot, vehicles are prompted to slow their speed, thus adding to reaction time. As evidences by the worn path into the parking lot, a large majority of the current traffic is already following this traffic pattern.

Utilities:

Electric poles
Water Main

Telephone Manhole
Gas line along length of alley
Fire Hydrant adjacent to utility pole

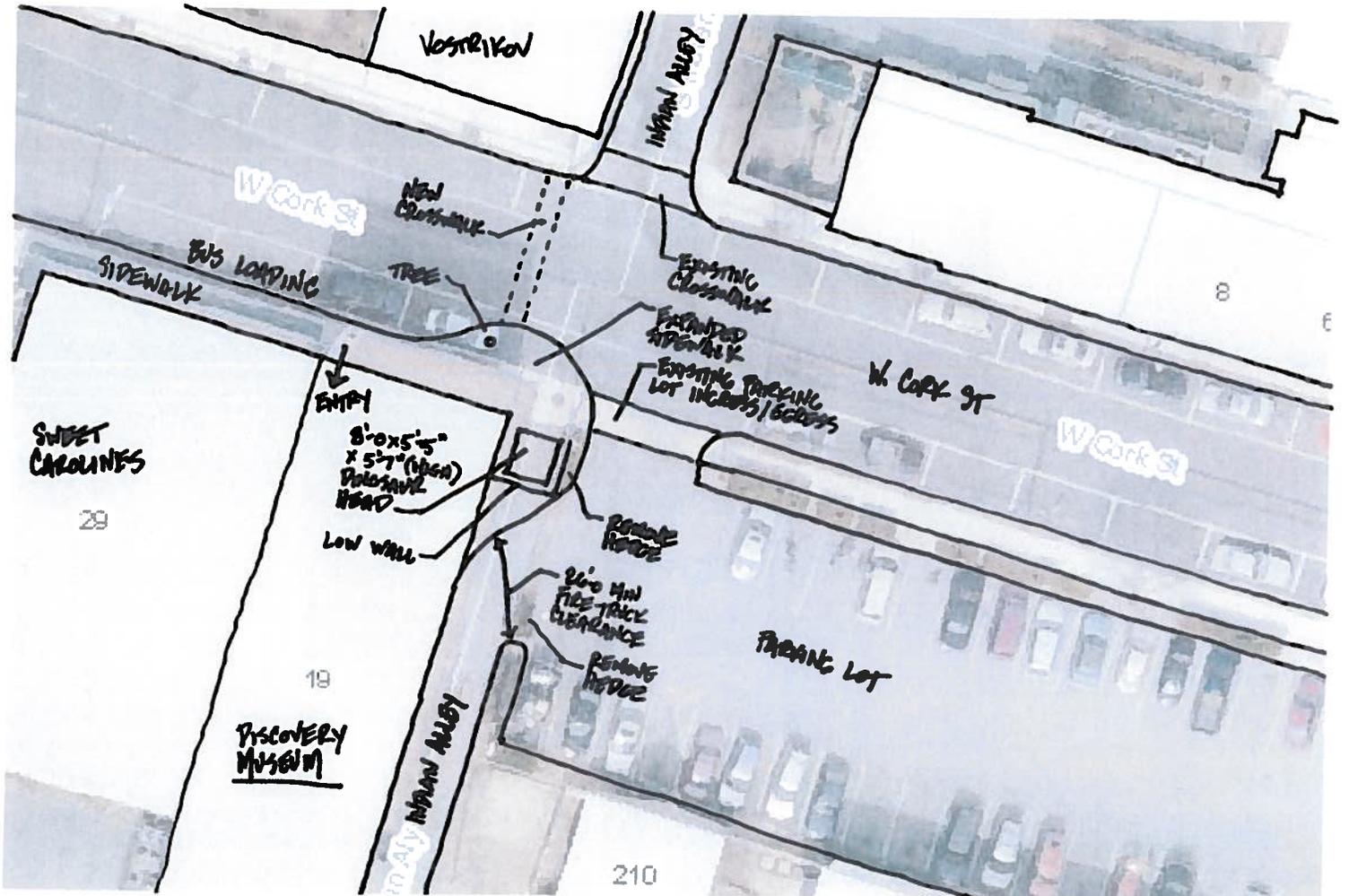
Outcomes:

- Close north end of Indian Alley at Cork Street
- Create "pocket park" at Cork Street and Alley intersection
- Move or add a bus drop-off from north side (west-bound lane) of Cork Street to the front of the museum
- Add raised crosswalk across Cork St. to safely convey foot traffic to/from walking mall
- Maintain fire truck clearance on Indian Alley

Enhancement:

The museum would design and fund a "pocket park" at the closed end of Indian Alley. However, no engineering monies will be spent until city approval is obtained. The sidewalk and park area would incorporate the brick with cement curb treatment used on the remodeled alley. The small park would feature benches, plantings, and a recreational climber in the form of a dinosaur skull. Consequently, 2013 improvements to the downtown walking mall would be echoed and increased by this nearby pocket park.

54 S. Loudoun Street
Winchester, Virginia 22601
(540)722-2020
Fax (540)722-2189
www.discoverymuseum.net





SCOTT MASON: The Wreckers

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/28/14 (work session),

CUT OFF DATE: 1/22/14

RESOLUTION __ ORDINANCE __ PUBLIC HEARING

ITEM TITLE:

Presentation by Planning Director: E. Cork Street Gateway Enhancements

STAFF RECOMMENDATION:

Staff recommends working with the 6 or so property owners along the south side of E. Cork St public right of way in order to undertake the fence and sidewalk improvements.

PUBLIC NOTICE AND HEARING:

N/A

ADVISORY BOARD RECOMMENDATION:

None

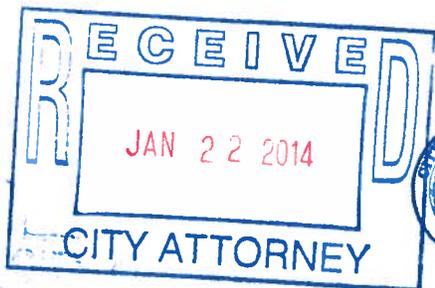
FUNDING DATA: will be presented at the work session (depends upon extent of City participation)

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Public Services	PE		1/22/14
2. City Attorney	AW		1/22/2014
3. City Manager	DI		1-23-14
4. Clerk of Council			

Initiating Department Director's Signature: [Signature] 1/22/14
(Planning)



APPROVED AS TO FORM:

[Signature] 1/22/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Mayor and Members of City Council
From: Tim Youmans, Planning Director
Date: January 21, 2014
Re: E. Cork St Gateway Enhancements

THE ISSUE:

The project would propose a partnership with the subject property owners to upgrade the fencing along the E. Cork Street frontage and possibly include creating a wider, safer sidewalk than could be provided without this partnership.

RELATIONSHIP TO STRATEGIC PLAN:

Goal#3: Continued Revitalization of Historic Old Town
Policy Agenda Action#2: Historic Old Town Gateway Enhancements
Goal #4: Create a more livable City for all
Action#2: City Gateway Beautification

BACKGROUND:

E. Cork St between Pleasant Valley Rd and Old Town is a major tourist entry route between the Visitor Center and Old Town attractions. The City is planning to replace sidewalk along the south side of the street where there are a number of personal residences that have yards that are enclosed along the back side of the public sidewalk with fencing of varying degrees of dilapidation which present an unappealing impression of the City.

BUDGET IMPACT:

Depending upon the formula approved by Council, the City would cover some or all of the expense of installing replacement fencing along E. Cork St frontage of the six (6) properties that already have fencing, most of which are dilapidated and/or are constructed of materials (e.g. chain link) not recommended in the overlay design district. Removal of existing fencing could ease efforts otherwise funded to replace the narrow sidewalks already proposed.

OPTIONS:

- 1) Approve the proposal as presented
- 2) Approve the proposal with revisions
- 3) Disapprove the proposal

RECOMMENDATIONS:

Staff recommends Option #1.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: Jan. 28, 2014 CUT OFF DATE: _____

RESOLUTION __ ORDINANCE __ PUBLIC HEARING __ INFORMATION

ITEM TITLE: 2013 Downtown Events Evaluation

STAFF RECOMMENDATION: It is recommended that the Old Town Development Board develop a Special Events Policy to advise Council on an events strategy which includes: strategic goals, appropriate fee recommendations, event promotion, recommendations on event signage and other event related issues.

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION: OTDB will discuss developing a Special Events policy at the annual OTDB Retreat in February.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. <u>Old Town Winchester</u>	<u>JEB</u>	_____	<u>1/14/14</u>
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<u>aw</u>	_____	<u>1/14/2014</u>
6. City Manager	<u>DT</u>	_____	<u>1-23-14</u>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: _____

Joseph Bell

1/14/14
Date



Revised: October 23, 2009



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

1/16/2014

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jennifer Bell, Downtown Manager
Date: January 8, 2014
Re: Old Town Event Evaluation

ISSUE:

Evaluation of events in the Downtown area in 2013, as requested by Council.

RELATIONSHIP TO STRATEGIC PLAN:

This presentation relates to the Continued Revitalization of Historic Old Town and Creating a More Liveable City for All.

BACKGROUND:

The City Council requested an end of season review/evaluation of the events held in the downtown in 2013. This evaluation encompasses city and non-city events. The city hired a Special Events Promoter for the first time in October 2012 to bring a new series of events into the downtown, to enhance existing events and to assist in bringing new events downtown. While this was broadly successful there are areas for improvement and on-going discussions about this mix of events which take place within the downtown.

BUDGET IMPACT:

This presentation is a report on what impact these events have made to the downtown and will include information on the increase in meals tax revenue during specific months and parking revenue during the events. (See attachments) Suggestions include enforcing fees for particular services which would bring in money to the city to cover event costs.

Meals Tax figures are incomplete for 2013 as December has not been recorded, however between June – November 2013 compared with 2012, \$45,731 more dollars were collected in meals taxes reflecting \$914,626 more dollars spent on meals in Downtown Winchester.

Major events led to an increase in almost \$6,000 in Parking Revenue in 2013. This reflected approximately 3,337 more total cars during major events.

Attendance at major events varied from approximately 1,500 – 7,000. Attendance numbers combined from major events brought approximately 42,535 attendees.

Special Event Contracted Events expenses were approximately \$124,488 and revenue approximately \$99,161 for a difference of (-\$25,326). If 60% of the retainer cost is factored in the total city investment is \$63,076 for 2013 Special Events conducted by Full Circle Marketing.

RECOMMENDATIONS:

Since this is the first year many new events were held and we are seeing an influx of new Special Event Applications it would be advisable to adopt a larger Special Events Policy for the City which encourages and promotes events which meet the goals of downtown stakeholders and the Council. As festivals and events grow, increased promotion of the events in a broader trade area and through tourist marketing would increase the reach and economic impact of these events. It is recommended that Old Town Development Board develop a Special Events Policy to advise council on an events strategy which includes: strategic goals, appropriate fee recommendations, event promotion, recommendations on event signage and other event related issues.

City of Winchester Meals Tax Revenue and Estimated Dollars Spent on Meals Comparison

Primary District

	Meals Tax Change 2012 v. 2013	Meals Tax Change 2011 v. 2013	Dollars Spent Change 2012/2013	Dollars Spent Change 2011/2013
January	\$30,752.57	\$9,991.43	\$615,051.40	\$199,828.60
February	\$315.09	(\$4,396.94)	\$6,301.80	(\$87,938.80)
March	(\$1,835.30)	(\$5,292.07)	(\$36,706.00)	(\$105,841.40)
April	(\$1,571.43)	(\$3,589.83)	(\$31,428.60)	(\$71,796.60)
May	\$2,291.06	\$412.97	\$45,821.20	\$8,259.40
June	\$8,690.28	\$12,610.65	\$173,805.60	\$252,213.00
July	\$9,248.21	\$8,785.97	\$184,964.20	\$175,719.40
August	\$7,498.88	\$8,618.23	\$149,977.60	\$172,364.60
September	\$8,624.08	\$14,604.93	\$172,481.60	\$292,098.60
October	\$5,535.58	\$5,610.13	\$110,711.60	\$112,202.60
November	\$6,134.31	\$11,568.13	\$122,686.20	\$231,362.60
December	no data	no data	no data	no data
Total	\$75,683.33	\$58,923.60	\$1,513,666.60	\$1,178,472.00

	Increased Meals Tax	Increased Dollars Spent
	June - Nov.	June - Nov.
2012 v. 2013	\$45,731.34	\$914,626.80
2011 v. 2013	\$61,798.04	\$1,235,960.80

*2013 Mall Construction January - mid-May, 2012 strange January numbers, Indian Alley project...)

Secondary District

	Meals Tax Change 2012 v. 2013	Meals Tax Change 2011 v. 2013	Dollars Spent Change 2012/2013	Dollars Spent Change 2011/2013
January	no data	\$5,629.83		\$112,596.60
February	\$308.49	(\$621.19)	\$6,169.80	(\$12,423.80)
March	(\$735.42)	(\$3,222.23)	(\$14,708.40)	(\$64,444.60)
April	\$86.00	(\$2,474.74)	\$1,720.00	(\$49,494.80)
May	\$1,161.77	\$569.37	\$23,235.40	\$11,387.40
June	\$423.72	(\$861.15)	\$8,474.40	(\$17,223.00)
July	\$501.10	\$1,479.44	\$10,022.00	\$29,588.80
August	\$1,493.63	(\$1,070.22)	\$29,872.60	(\$21,404.40)
September	\$2,394.26	(\$1,074.54)	\$47,885.20	(\$21,490.80)
October	\$1,742.32	(\$359.52)	\$34,846.40	(\$7,190.40)
November	(\$352.97)	\$1,866.45	(\$7,059.40)	\$37,329.00
December	\$2,050.58	\$1,257.51	\$41,011.60	\$25,150.20
Total	\$9,073.48	\$1,119.01	\$510,508.80	\$22,380.20

City of Winchester Meals Tax Revenue and Estimated Dollars Spent on Meals

Primary District

	2011		2012		2013	
	Meals Tax	Dollars Spent	Meals Tax	Dollars Spent	Meals Tax	Dollars Spent
January	\$21,736.24	\$434,724.80	\$975.10	\$19,502.00	\$31,727.67	\$634,553.40
February	\$25,460.95	\$509,219.00	\$20,748.92	\$414,978.40	\$21,064.01	\$421,280.20
March	\$27,966.17	\$559,323.40	\$24,509.40	\$490,188.00	\$22,674.10	\$453,482.00
April	\$32,361.58	\$647,231.60	\$30,343.18	\$606,863.60	\$28,771.75	\$575,435.00
May	\$32,227.22	\$644,544.40	\$30,349.13	\$606,982.60	\$32,640.19	\$652,803.80
June	\$32,571.25	\$651,425.00	\$36,491.62	\$729,832.40	\$45,181.90	\$903,638.00
July	\$34,372.72	\$687,454.40	\$33,910.48	\$678,209.60	\$43,158.69	\$863,173.80
August	\$33,279.24	\$665,584.80	\$34,398.59	\$687,971.80	\$41,897.47	\$837,949.40
September	\$29,242.91	\$584,858.20	\$35,223.76	\$704,475.20	\$43,847.84	\$876,956.80
October	\$31,965.35	\$639,307.00	\$32,039.90	\$640,798.00	\$37,575.48	\$751,509.60
November	\$28,058.82	\$561,176.40	\$33,492.64	\$669,852.80	\$39,626.95	\$792,539.00
December	\$30,439.08	\$608,781.60	\$29,511.27	\$590,225.40	no data	no data
Annual Total	\$359,681.53	\$7,193,630.60	\$341,993.99	\$6,839,879.80	\$388,166.05	\$7,763,321.00

Secondary District

	2011		2012		2013	
	Meals Tax	Dollars Spent	Meals Tax	Dollars Spent	Meals Tax	Dollars Spent
January	\$10,822.13	\$216,442.60	no data	no data	\$16,451.96	\$329,039.20
February	\$11,574.91	\$231,498.20	\$10,645.23	\$212,904.60	\$10,953.72	\$219,074.40
March	\$14,526.39	\$290,527.80	\$12,039.58	\$240,791.60	\$11,304.16	\$226,083.20
April	\$15,885.71	\$317,714.20	\$13,324.97	\$266,499.40	\$13,410.97	\$268,219.40
May	\$13,876.95	\$277,539.00	\$13,284.55	\$265,691.00	\$14,446.32	\$288,926.40
June	\$15,293.80	\$305,876.00	\$14,008.93	\$280,178.60	\$14,432.65	\$288,653.00
July	\$13,168.29	\$263,365.80	\$14,146.63	\$282,932.60	\$14,647.73	\$292,954.60
August	\$15,737.21	\$314,744.20	\$13,173.36	\$263,467.20	\$14,666.99	\$293,339.80
September	\$14,908.81	\$298,176.20	\$11,440.01	\$228,800.20	\$13,834.27	\$276,685.40
October	\$16,464.11	\$329,282.20	\$14,362.27	\$287,245.40	\$16,104.59	\$322,091.80
November	\$13,175.55	\$263,511.00	\$15,394.97	\$307,899.40	\$15,042.00	\$300,840.00
December	\$14,437.16	\$288,743.20	\$13,644.09	\$272,881.80	\$15,694.67	\$313,893.40
Annual Total	\$169,871.02	\$3,397,420.40	\$145,464.59	\$2,909,291.80	\$170,990.03	\$3,419,800.60

Attendance Estimates for Major 2013 Events

	Event	Est. Total Tickets Collected	Actual Attendees	Notes
	The Big Kiss	N/A	110	Held in G.W.
New Event	Sip N Stroll	40	40	During Mall Project
New Event	Restaurant Week	N/A	500	During Mall Project
New Event	Old Town Mall Rededication - May 17/18	N/A	1200	
New Event	Hop Blossom - June 8	est 2,200	2500	
	Bluemont Concert Series	200	200	Varied due to weather and topic
	Movies on the Mall	N/A	140	Varied due to weather and topic
New Event	Friday Night Live - June 14	315	2,000	
New to OTW	Rockin Independence Eve	N/A	5000	
New Event	Friday Night Live - July 12	465	1500	Rainy
New Event	Salute to Our Troops - July 20	N/A	1000	Very Hot Weather
	Moonlight Ball - July 20	90	90	Very Hot Weather
New Event	Douglass Day	N/A	300	
New Event	Friday Night Live - August 9	649	2500	
New Event	Downtown Tailgate - Sept6/7	1500	3000	
	Celebracion	N/A	1200	
	OctoBEER Fest - Oct. 18/19	3000	5000	Rainy second day
	Spooktacular - Oct. 26	N/A	1500 Adults	
		N/A	700 Kids	
	Plaid Friday/Small Business Saturday - Nov. 29/30	N/A	500	
	Holiday Parade & Tree Lighting - Dec. 2	N/A	4000	
	Santa's Headquarters - Dec. 6/7	N/A	115 Children	
		N/A	200 Adults	
	Holly Jolly - Dec. 14	N/A	300	Snowy weather
	Victorian Candlelight Ball - Dec. 14	N/A	100	Icy Weather
	First Night Winchester	3,500	7,000	Cold
TOTAL:			42,535	

Parking Numbers for Major 2013 Events

Event	Parking Hourly Cars 2013	Parking Hourly Cars (2012)	Increase in cars	Parking Income (2013/2012)	Parking Revenue Increase
Hop Blossom - June 8	761	277	484	\$1500/\$550	\$950
Friday Night Live - June 14	681	457	224	\$1000/\$650	\$350
Rockin Independence Eve	1113	337	776	\$1600/\$500	\$1,100
Friday Night Live - July 12	697	526	171	\$1119/\$857	\$262
Salute to Our Troops - July 20	512	306	206	\$833/\$586	\$247
Friday Night Live - August 9	690	398	292	\$1,106/\$620	\$486
Downtown Tailgate - Sept6/7	662	332	330	\$993/\$474	\$519
OctoBEER Fest - Oct. 18/19	907	370	537	\$1456/\$571	\$885
Plaid Friday/Small Business Saturday - Nov. 29/30	682	553	129	\$1056/\$895	\$161
Holiday Parade & Tree Lighting - Dec. 2	524	336	188	\$2620/\$1680	\$940
First Night				\$1420/\$1,356	\$64
TOTALS:	7229	3892	3337		\$5,964

Special Event Contracted Events 2013

Event	Expense	Revenue	
FNL June 14	\$23,965.20	\$7,692.32	-\$16,272.88
FNL July 12	\$19,056.30	\$7,014.57	-\$12,041.73
FNL August 9	\$20,273.21	\$7,554.73	-\$12,718.48
Rockin Independence Eve	\$8,257.53	\$5,752.00	-\$2,505.53
Salute to the Troops	\$7,993.54	\$5,555.00	-\$2,438.54
Downtown Tailgate	\$20,989.61	\$20,990.56	\$0.95
OctoBeerfest	\$23,952.75	\$44,602.21	\$20,649.46
TOTALS:	\$124,488.14	\$99,161.39	-\$25,326.75

Costs do not reflect the contracted retainer costs.

The retainer is for the events, a marketing plan and for a branding campaign.

First year costs for retainer \$69,600

If 60% of the retainer is added to the event expenses the total city investment:
\$63,076

2013 Calendar of events by date

Organization	Event	Venue	Day	Date
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	February 1, 2013
OT Development Board	The Big Kiss	Old Town Winchester	Saturday	February 9, 2013
Winchester Parks & Rec. Dep.	Rouss Birthday Celebration	City Hall	Monday	February 11, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	March 1, 2013
OTW Business Association	Easter Egg Hunt	Old Town Winchester	Saturday	March 30, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	April 5, 2013
Rotary of Frederick County	Tax Relief Pub Crawl	Old Town Winchester	Tuesday	April 16, 2013
Apple Blossom	Apple Blossom Wine Festival	Old Town Winchester	Friday & Saturday	April 26, 2013
Apple Blossom	Apple Blossom Festival	Winchester	Friday	May 3, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	May 3, 2013
Apple Blossom	Apple Blossom Festival	Winchester	Saturday	May 4, 2013
OTW	Mall Rededication	Old Town Winchester	Friday	May 17, 2013
OTW	Mall Rededication	Old Town Winchester	Saturday	May 18, 2013
Mark Stickley	Loudoun Street Mile	Old Town Winchester	Monday	May 27, 2013
Lee's Lt. Army	Gathering of Eagles	Old Town Winchester	Saturday	June 1, 2013
March of Dimes	Winchester March for Babies	Old Town Winchester		June 1, 2013
Boys & Girls Club	Bike-a-Thon	Old Town Winchester	Sunday	June 2, 2013
Special Olympics Law Enforcement	Torch Run	Loudoun Street	Tuesday	June 4, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	June 7, 2013
OTW Business Association	Hop Blossom Beer Festival	Old Town Winchester	Saturday	June 8, 2013
Full Circle Marketing	Friday Night Live	Old Town Winchester	Friday	June 13, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		June 20, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	June 21, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		June 27, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	June 28, 2013

2013 Calendar of events by date

Full Circle Marketing/OTDB/WPRD	Rockin Independence Eve	Old Town Winchester	Wednesday	July 3, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	July 5, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	July 5, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		July 11, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	July 12, 2013
Full Circle Marketing	Friday Night Live	Old Town Winchester	Friday	July 12, 2013
Mark Stickley	Civil War Scavenger Hunt Run	Downtown Winc./Fred. Co.		July 13, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		July 18, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	July 19, 2013
WPRD	Shenandoah Moonlight Ball	Old Town Winchester		July 20, 2013
WPRD & Full Circle Marketing	Salute To The Troops	Old Town Winchester	Saturday	July 20, 2013
OTW Business Association	Winchester Days	Old Town Winchester	Wednesday-Friday	July 24, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		July 25, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	July 26, 2013
Numerous	Civil War Weekend	Downtown Winc./Fred. Co.		August 1, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		August 1, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	August 2, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	August 2, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		August 8, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	August 9, 2013
Full Circle Marketing	Friday Night Live	Old Town Winchester	Friday	August 9, 2013
OT Development Board/WPRD	Movies on the Mall	Old Town Winchester		August 15, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	August 16, 2013
Bluemont	Bluemont Concert Series	Old Town Winchester	Friday	August 23, 2013
Full Circle Marketing	Downtown Tailgate	Old Town Winchester	Saturday	September 6, 2013
Full Circle Marketing	Downtown Tailgate	Old Town Winchester	Saturday	September 7, 2013

2013 Calendar of events by date

OT Development Board	Murder Mystery	City Hall	Saturday	September 13 & 14
Main Street Foundation	Celebracion of Winchester	Old Town Winchester	Saturday	September 21, 2013
OTW Business Association	Winchester's Main Street Agriculture	Old Town Winchester	Saturday	September 28, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	October 4, 2013
ARC of Northern Shenandoah Valley	Walk-A-Thon	Old Town Winchester	Friday	October 4, 2013
OTW Business Association	Strolling Bridal Show	Old Town Winchester	Sunday	October 6, 2013
Full Circle Marketing	OctoBEER Fest	Old Town Winchester	Friday/Saturday	October 18, 2013
Full Circle Marketing	OctoBEER Fest	Old Town Winchester	Friday/Saturday	October 19, 2013
OTDB	Halloween Spooktacular	Old Town Winchester	Saturday	October 26, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	November 1, 2013
OTW Business Association	Plaid Friday	Old Town Winchester	Friday	November 29, 2013
OT Development Board	Old Town Christmas Parade	Old Town Winchester	Monday	December 2, 2013
OTW Business Association/SAC	First Fridays	Old Town Winchester	Friday	December 6, 2013
OT Development Board	Santa's Headquarters	Old Town Winchester	Saturday	Deember 6 - 7, 2013
OT Development Board	Hist. House Holiday Tours (cancelled)	Old Town Winchester	Saturday	December 14, 2013
OTWBA/OTDB/WPR/FCM	Holly Jolly Old Town Celebration	Old Town Winchester	Saturday	December 14, 2013
OTW/WPRD	Victorian Candlelight Ball	Old Town Winchester	Saturday	December 14, 2013
YDC	Jingle Bell 5k Run	Old Town Winchester	Saturday	December 21, 2013
First Night Winchester	First Night	Old Town Winchester	Tuesday	December 31, 2013
Event Statistics				
Event Contractor Events	10 days, 8 events, 7 Family Friendly, 1 Adult			
Walk/Run Events	6 events, all Family Friendly			
Adult Oriented Events	7 days			
Family Friendly Events	51 days			
Family/Kids Oriented Events	13 days			
New Events	7 event contractor; 3 other			
Total Number of Event Days	71			

R-2014-02

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 01/21/2014 **CUT OFF DATE:** _____

RESOLUTION X **ORDINANCE** **PUBLIC HEARING**

ITEM TITLE: Refund Piedmont Medical Laboratory, Riddleberger Brothers Inc. and Integrity Home Mortgage Corp. for Prorated Business License Taxes

STAFF RECOMMENDATION: Approve

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

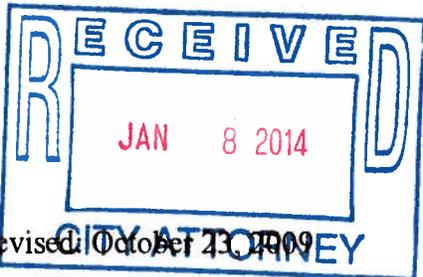
FUNDING DATA:

INSURANCE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<i>JB</i>		1-8-14
2. Treasurer	<i>JB/PLH</i>		1-8-2014
3. _____			
4. _____			
5. City Attorney	<i>AW</i>		1/8/2014
6. City Manager	<i>DT</i>		1-9-14
7. Clerk of Council			

Initiating Department Director's Signature: *Gene T. Beville* Date: 12/23/2013



APPROVED AS TO FORM:

[Signature]
1/8/14
CITY ATTORNEY

RESOLUTION

WHEREAS, Piedmont Medical Laboratory has requested a prorated refund of Business License Taxes for tax year 2013; and

WHEREAS, Riddleberger Brothers, Inc. has requested a prorated refund of Business License Taxes for tax year 2013; and

WHEREAS, Integrity Home Mortgage Corp. has requested a prorated refund of Business License Taxes for tax year 2012 and full refund of Business License Taxes for tax year 2013; and

WHEREAS, the office of the Commissioner of the Revenue has certified that each of these taxpayers has properly requested and is entitled to this refund; and

WHEREAS, the office of the Commissioner of the Revenue wishes to maintain accurate and equitable tax records.

NOW therefore be it RESOLVED, that Common Council hereby approves the refund of \$12,078.51 to Piedmont Medical Laboratory for prorated Business License Taxes, the refund of \$10,420.84 to Riddleberger Brothers, Inc. and the refund of \$46,811.11 to Integrity Home Mortgage Corp. for prorated and erroneously paid Business License Taxes; and directs the City Treasurer to refund said amounts together with any penalties and interest paid thereon.

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Ann T. Burkholder, Commissioner of the Revenue
Date: 12/23/2013
Re: Refund for Prorated Business License Taxes

THE ISSUE: Three taxpayers have requested refunds of business, professional and occupational (BPOL) taxes paid.

RELATIONSHIP TO STRATEGIC PLAN: This is a matter of fair and equitable taxation, which relates to Goal 2: Create a high-performing City organization.

BACKGROUND: Code of the City of Winchester §27-8, in accordance with Code of Virginia §58.1-3981 requires City Council approval of any refunds in excess of \$2,500.00. Code of the City of Winchester §28-12 provides for refunds of BPOL taxes paid under certain circumstances.

1. Piedmont Medical Laboratory transferred ownership of its business to another entity during tax year 2013. The taxpayer has applied for a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.
2. Riddleberger Brothers, Inc. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. The taxpayer has applied for a prorated refund to ensure the licensed privilege includes only those gross receipts attributable to a taxable situs within the City of Winchester.
3. Integrity Home Mortgage Corp. filed and paid for 2012 and 2013 City business licenses. However, as the business actually moved out of the City in mid-2012, the taxpayer then requested a partial refund for 2012 and full refund for 2013.

BUDGET IMPACT: Minimal.

OPTIONS: When appropriate, the office of the Commissioner of the Revenue offers the option of either a credit on the account towards future taxes or a refund.

RECOMMENDATION: Pursuant to Code of the City of Winchester §27-8, the Commissioner of the Revenue respectfully requests that the City Council, with the consent of the City Attorney, authorize the Treasurer to issue these three refunds in the amounts certified by the Commissioner of the Revenue for each.



Ann T. Burkholder, Commissioner of the Revenue
15 North Cameron Street
Winchester, VA 22601
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 667-8937
TDD: (540) 722-0782
Website: www.winchesterva.gov

Certificate of the Commissioner of the Revenue

Piedmont Medical Laboratory transferred ownership of its business to another entity during tax year 2013. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Piedmont Medical Laboratory is due a refund of \$12,078.51 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Handwritten signature of Ann T. Burkholder in black ink.

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Handwritten signature of Anthony C. Williams in black ink.

Anthony C. Williams

Date: 1/8/2014



Ann T. Burkholder, Commissioner of the Revenue
15 North Cameron Street
Winchester, VA 22601
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 667-8937
TDD: (540) 722-0782
Website: www.winchesterva.gov

Certificate of the Commissioner of the Revenue

Riddleberger Brothers, Inc. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Riddleberger Brothers, Inc. is due a refund of \$10,420.84 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Handwritten signature of Ann T. Burkholder in black ink.

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Handwritten signature of Anthony C. Williams in black ink.

Anthony C. Williams

Date: 1/8/2014



Ann T. Burkholder, Commissioner of the Revenue
15 North Cameron Street
Winchester, VA 22601
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 667-8937
TDD: (540) 722-0782
Website: www.winchesterva.gov

Certificate of the Commissioner of the Revenue

Integrity Home Mortgage Corp. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Integrity Home Mortgage Corp. is due a refund of \$46,811.11 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Anthony C. Williams

Date: 1/8/2014

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 21, 2014 **CUT OFF DATE:** ___

RESOLUTION ___ **ORDINANCE** X **PUBLIC HEARING** ___

ITEM TITLE: Amendment of Chapter 8 and Chapter 27 Ordinances in Order to Accommodate the Establishment of the Winchester Enterprise Zone and its Related Incentives

STAFF RECOMMENDATION: Approval

PUBLIC NOTICE AND HEARING: To be held February 11, 2014.

ADVISORY BOARD RECOMMENDATION: The Winchester Economic Development Authority approves of the ordinances amendments

FUNDING DATA: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	JB		1-17-13
2. Commissioner of the Revenue	DTB		1/14/14
3. _____			
4. _____			
5. City Attorney	aw		1/14/2014
6. City Manager	DI		1-16-14
7. Clerk of Council	DT		1-16-14

Initiating Department Director's Signature: _____


Economic Redevelopment Director

1/14/13
Date

APPROVED AS TO FORM:




CITY ATTORNEY



CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: January 21, 2014
Re: Adoption of Enterprise Zone Ordinance

THE ISSUE: The purpose of these ordinances are to establish an enterprise zone as authorized and guided by the Code of Virginia, § 59.1-543 et seq., to improve the economic conditions of the downtown area of Winchester.

RELATIONSHIP TO STRATEGIC PLAN: Goal 1: Grow the Economy

BACKGROUND: The City was recently awarded Virginia Enterprise Zone designation. Council is required to adopt these ordinances before the enterprise zone can begin offering incentives.

BUDGET IMPACT: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

OPTIONS: Council has the option to approve or reject the proposed ordinances.

RECOMMENDATIONS: City Staff recommends that Council adopt the ordinances.

**CHAPTER 8
ENTERPRISE ZONE**

- Art. I. ~~General Provisions, §§8-1-8-15~~
- Art. II. ~~Tax Rebates, §§8-16-8-25~~
- Art. III. ~~Exemption from Land Development Fees, §§8-26-8-40~~
- Art. IV. ~~Substantially Rehabilitated Property, §§8-41-8-44~~

Art. I. General Provisions, §§8-1--8-25

Art. II. Exemption from Land Development Fees, §§8-26--8-4032

Art. III. Substantially Rehabilitated Property, §§8-41-8-47

ARTICLE I - GENERAL PROVISIONS

SECTION 8-1. PURPOSE.

The purpose of this chapter is to establish an enterprise zone as authorized and guided by the Code of Virginia, § 59.1-251 *et seq.*, to improve the economic conditions of the downtown and other areas of Winchester. (Ord. No. 033-95, 9-12-95)

SECTION 8-2. APPLICABILITY.

The provisions of this chapter shall apply only to the area described herein and- designated by the Commonwealth of Virginia as an enterprise zone. If for any reason the Commonwealth of Virginia ceases to recognize the area as an enterprise zone, the provisions of this chapter shall be void. (Ord. No. 033-95, 9-12-95)

SECTION 8-3. ADMINISTRATION.

The Local Zone Administrator of the Winchester Enterprise Zone shall be the city manager or his designee. The Local Zone Administrator shall determine and publish the procedure for obtaining the benefits created by this chapter. (Ord. No. 033-95, 9-12-95)

SECTION 8-4. DEFINITIONS.

When used in this chapter, the definitions found in Code of Virginia §59.1-271, *et seq.*, as amended from time to time, shall control and are incorporated herein by reference. (Ord. No. 033-95, 9-12-95)

Editor's note--Ord. No. 033-95 adopted on September 12, 1995 enacted this chapter.

ENTERPRISE ZONE

SECTION 8-5. BOUNDARIES.

The enterprise zone shall be that area located within the following boundary lines:-

~~Commencing at the Northeast Corner of the intersection of Cecil Street and Braddock Street;~~

~~thence east along the North line of Cecil Street to Cameron Street;~~

~~thence north along the West line of Cameron Street to the North side of Clifford Street;~~

~~thence east along the North line of Clifford Street to Kent Street;~~

~~thence north along the West line of Kent Street to the north side of Cork Street;~~

~~thence east along the North side of Cork Street to the West side of East Lane;~~

~~thence north along the West side of East Lane to the Southwest corner of the~~

~~intersection of East Lane and Fairfax Lane;~~

~~thence West along the south side of Fairfax Lane to the intersection with West Lane;~~

~~thence North along the west side of West Lane to the South side of Elk St.;~~

~~thence West along the South side of Elk St. to the intersection of Elk Street and Chase Street;~~

~~thence North along the west side of Chase Street to the South side of Kern Street; thence~~

~~West along the south side of Kern Street to the West side of Kent Street; thence North~~

~~along the West side of Kent Street to the south side of the public~~

~~way crossing the CSXT railroad tracks;~~

~~thence West along the south side of the public way crossing the CSXT railroad tracks to the east side of Cameron Street;~~

~~thence South along the east side of Cameron Street to the South side of North Avenue;~~

~~thence West along the south side of North Avenue to the east side of Loudoun~~

~~Street; thence south along the east side of Loudoun Street to the South side of Fairfax~~

~~Lane; thence west along the south side of Fairfax Lane to the east side of Washington~~

~~Street; thence south along the east side of Washington Street to the North side of Cork~~

~~Street; thence east along the north side of Cork Street to the East side of Braddock Street;~~

~~thence south along the east side of Braddock Street to the point of beginning;~~

~~as shown on the map which is adopted as a part of this ordinance. (Ord. No. 033-95, 9-12-95)~~

The boundaries of the Winchester Enterprise Zone ("the Zone") are those established pursuant to Code of Virginia, § 59.1-543 et seq. (the "Enterprise Zone Grant Program Act" or, "the Act", as referred to herein this Chapter), and the designation as an enterprise zone of such area(s) as approved by the Governor of the Commonwealth of Virginia and described in those official Winchester Enterprise Zone real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time (the "designation").

SECTIONS 8-6 - 8-1415. RESERVED.

~~WINCHESTER CODE~~

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SECTION 8-15. LOCAL ENTERPRISE ZONE INCENTIVES

Pursuant to the Act and the designation; and pursuant to the requirement of the Act that local incentives be offered to qualifying recipients located within an enterprise zone as pledged by enterprise zone applicant and approved by the Governor of the Commonwealth of Virginia and described in the application made by the City of Winchester for the designation of the Zone, and as may be amended from time to time, such local incentives as are delineated in this section are hereby authorized.

The Local Zone Administrator is authorized to administer and deliver, and the City of Winchester is authorized to fund, as required, the following local enterprise zone incentives as further authorized subsequently in this Chapter: Exemption from Land Development Fees for commercial, industrial or residential properties. The Local Zone Administrator and the Winchester Economic Development Authority are authorized to administer and deliver, and the City of Winchester and the Winchester Economic Development Authority are authorized to fund, as required, the following local enterprise zone incentives: Business Growth Revolving Loan Fund, Commercial Façade Program, Real Estate Development Revolving Loan Fund, and Winchester Enterprise Zone Micro-loan Program. The Local Zone Administrator and the Winchester Economic Development Authority are authorized to administer and deliver, and the City of Winchester is authorized to enter into a funding agreement with the Winchester Economic Development Authority in order to fund the following enterprise zone incentives: Business Development Grant for Vacant Properties, Entrepreneurship Incentive, Knowledge-based Jobs Grant, Major Economic Development Project Incentive, Major Mixed-use Development Incentive, New or Expanding Technology-driven Business Grant, and Retail Mix Enhancement Grant. The Commissioner of the Revenue is authorized to administer the Substantially Rehabilitated Enterprise Zone Property Real Estate Tax Exemption for commercial, industrial or residential properties as described in Chapter 27 Division 4A of Code of the City of Winchester.

SECTIONS 8-16 – 8-18. REPEALED.

SECTIONS 8-19 – 8-25. RESERVED

ENTERPRISE ZONE

ARTICLE II. TAX REBATES

SECTION 8-16. TAXES ELIGIBLE FOR REBATE.

Qualified business firms shall receive a rebate of a percentage of the following local taxes:

- a. ~~The meals tax imposed by Winchester City Code § 27-70 et seq.~~
- b. ~~The motel tax imposed by Winchester City Code § 27-90 et seq.~~
- e. ~~The machinery and tools tax imposed by Winchester City Code § 27-50.~~
- d. ~~The utility tax on local telephone usage imposed by Article V of Chapter 27 of the Winchester City Code.~~
- e. ~~The business, professional and occupational license taxes imposed by Chapter 28 of the Winchester City Code. (Ord. No. 033-95, 9-12-95)~~

SECTION 8-17. AMOUNT OF REBATE.

The amount of each type of tax rebate under §8-16 shall be a percentage of that tax paid by the firm each year. The percentage rebated each year shall be determined by the following schedule:

Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Year 5	20%

Year 1 is the calendar year following the year in which the firm becomes a qualified business firm. Qualified business firms shall receive the tax rebates established by this article for five years. If a business ceases to be a qualified business firm during a year in which the rebates apply, any rebates shall be prorated for the months the business was a qualified business firm. (Ord. No. 033-95, 9-12-95)

SECTION 8-18. PROCEDURE FOR REBATE.

Qualified business firms shall pay the taxes listed in this article in the manner prescribed by

~~WINCHESTER CODE~~
WINCHESTER CODE

~~the Winchester City Code. Business firms shall apply to the Local Zone Administrator for certification as a qualified business firm. Upon certification and proof that no taxes are currently due, the qualified business firm shall be entitled to the rebates~~

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ENTERPRISE ZONE

created by this article. The schedule for rebating the taxes shall be regulated by the Local Zone Administrator. Failure of the firm to pay in full by the due date any of the taxes listed in this article, shall result in forfeiture of the rebate of that tax for that year. (Ord. No. 033-95, 9-12-95)

~~SECTIONS 8-19 – 8-25. RESERVED.~~

ARTICLE III. II. EXEMPTION FROM LAND DEVELOPMENT FEES

SECTION 8-26. QUALIFIED ZONE RESIDENTS PERMIT AND FEE EXEMPTIONS

For purposes of this article, the term "qualified zone resident" shall have the meaning provided in the Code of Virginia §59.1-280.1(D), as amended from time to time. The term shall also include a person who has entered into a contract to purchase or lease land within the enterprise zone, who will become a "qualified zone resident" except that such person does not yet hold title to the land at the time the fee is incurred. (Ord. No. 033-95, 9-12-95)

(a) Commercial, Industrial and Mixed-Use Property.

(a) Pursuant to the Act and the designation, an exemption from certain building permit, zoning and subdivision fees is hereby authorized for the new construction and renovation or rehabilitation of commercial, industrial, or mixed-use real estate which is located within the Zone and which have met the qualification criteria described in this Article. For purposes of this article, the term "mixed-use" shall mean any building developed as a mixed-use building, as defined in the Code of Virginia, § 59.1-548(A) or, if a development qualifying for a Major Mixed-use Development Incentive and consisting of more than a single building, structure(s) developed on a tract of land for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public or entertainment and including the on-site infrastructure necessary to support such uses. The said exemption shall be in the form of a refund of such fees as are described in this Article, except that no fee or portion of any fee which is remanded to the Commonwealth of Virginia or to any entity other than the City of Winchester shall be refunded.

(b) Residential Property.

(b) Pursuant to the Act and the designation, an exemption from certain building permit, zoning and subdivision fees is hereby authorized for the new construction and

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renovation or rehabilitation of residential real estate which is located within those portions of the N. Loudoun Street District located in the Zone and which have met the qualification criteria described below. The boundaries of the N. Loudoun Street District are described in those official real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time.

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SECTION 8-27. BUILDING CODE FEES, QUALIFIED RECIPIENTS

Qualified zone residents shall be exempt from the application fee imposed by Winchester City Code §6-26 and the building permit fees imposed by Winchester City Code §6-27. (Ord. No. 033-95, 9-12-95)

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(a) SUBSTANTIALLY REHABILITATED REAL ESTATE.

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COMMERCIAL/INDUSTRIAL PROPERTY REAL ESTATE TAX EXEMPTION

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Qualified recipients shall be those owners of residential, commercial, industrial or mixed-use property who complete a substantial rehabilitation project as defined in Chapter 27 Division 4A of Code of the City of Winchester.

Qualified recipients shall be those owners of residential, commercial, industrial, or mixed-use property located within the Zone who complete new construction costing at least five hundred thousand dollars (\$500,000) or who complete a rehabilitation or renovation costing at least sixty percent (60%) of the pre-renovation assessed value of the rehabilitated or renovated improvements.

(b) SUBSTANTIALLY REHABILITATED RESIDENTIAL PROPERTY REAL ESTATE TAX EXEMPTION

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Qualified recipients shall be those owners of residential property located within the N. Loudoun Street district inside the Zone who complete a substantial rehabilitation that increases their assessed value of the residential structure by at least 40% without increasing total square footage by more than 15%. If the total square footage of the improved structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article.

(eb) BUSINESS DEVELOPMENT GRANT FOR VACANT PROPERTIES.

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Qualifying recipients shall also include eligible businesses that conduct a substantial rehabilitation of a property within the Zone equal to or more than 75% of the assessed value of the property. The property must be at least 5,000sf, have been consecutively vacant for the two years prior to the commencement of the renovation and the business must be new to the City, or an expansion location within the City.

Completion shall be evidenced by the issuance of a final certificate of occupancy or, where no certificate of occupancy is required, by a final building inspection certificate.

(dc) INCENTIVE VALUATION.

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ENTERPRISE ZONE

The value of the incentive shall be measured and determined by the property's assessed value immediately before commencement of substantial rehabilitation and the assessed value immediately after completion of substantial rehabilitation, as determined by the City's assessing official.

(de) EXCLUDED RECIPIENTS.

Properties that possess or will possess not-for-profit enterprises are excluded from receiving any of the aforementioned incentives. Mixed-use properties that possess a not-for-profit enterprise must house residential or for profit businesses that amount for sixty percent (60%) or more are qualified recipients.

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SECTION 8-28. WATER AND SEWER AVAILABILITY CHARGE, AMOUNT.

Qualified zone residents shall be exempt from the availability charge imposed by Winchester City Code §29-7(e) on water and sewer connections. (Ord. No. 033-95, 9-12-95) Fees to be refunded to a qualified recipient shall include and be limited to the building permit fees imposed by Winchester City Code §6-27, the fees imposed by §23-8-1 et seq. of the Zoning Ordinance, and the charge for the submission of a subdivision plat imposed by the Subdivision Ordinance §4-8.

SECTION 8-29. ZONING ORDINANCE FEES, OWNER'S APPLICATION.

Qualified zone residents shall be exempt from the fees imposed by §23-8-1 et seq. of the Zoning Ordinance. (Ord. No. 033-95, 9-12-95)

The owner of property which is qualified to be exempted from those fees described above shall be required to file an application requesting the exemption provided for in this article with the Local Zone Administrator not later than one year after completing the qualifying construction. No property owner may apply for an exemption under this article on the basis of a building permit issued prior to the establishment of the enterprise zone.

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SECTION 8-30. SUBDIVISION ORDINANCE FEE, REPEALED

Qualified zone residents shall be exempt from the charge for the submission of a subdivision plat imposed by the Subdivision Ordinance §4-8. (Ord. No. 033-95, 9-12-95)

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SECTION 8-31. NONWAIVER.

This article shall not be construed to waive the requirement of any application, permit, or approval from the City as mandated by other code sections. Nothing in this article shall be construed as waiving the right of the City of Winchester to collect any fines or penalties imposed by other sections of the Code. (Ord. No. 033-95, 9-12-95)

~~SECTIONS 8-32 – 8-40. RESERVED.~~

~~ARTICLE III. SUBSTANTIALLY REHABILITATED PROPERTY~~

Comment [AB1]: Mov
ed to Chapter 27 Division
4.

**~~SECTION 8-41. RESIDENTIAL REAL ESTATE. AUTHORIZED; AMOUNT;
DURATION~~**

~~Any residential real estate within an Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been improved as to increase the assessed value thereof by no less than forty percent (40%), without increasing the total square footage by more than fifteen percent (15%) shall qualify for the real estate tax exemptions granted by Winchester City Code § 27-29. (Ord. No. 033-95, 9-12-95)~~

~~(a)~~

~~Pursuant to the Act and the designation, a real estate tax exemption is hereby authorized for commercial or industrial use real estate which is located within the Zone and which has undergone substantial rehabilitation or renovation. The exemption shall be in an amount equal to the increase in the assessed value resulting from the rehabilitation of the real estate, as determined by the Commissioner, and this amount only shall be applicable to any subsequent assessment or reassessment for a period of twelve (12) years commencing on July 1 of the year following the completion of the rehabilitation or renovation.~~

~~(b)~~

~~Pursuant to the Act and the designation, a real estate tax exemption is hereby authorized for residential real estate which is located within those portions of the Winchester Historic District, to include the entire N. Loudoun Street District, located in the Zone and which has undergone substantial rehabilitation or renovation. The boundaries of the Winchester Historic District and N. Loudoun Street District are~~

ENTERPRISE ZONE

~~described in those official real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time. The exemption shall be in an amount equal to the increase in the assessed value resulting from the rehabilitation of the real estate, as determined by the Commissioner, and this amount only shall be applicable to any subsequent assessment or reassessment for a period of twelve (12) years commencing on July 1 of the year following the completion of the rehabilitation or renovation.~~

(e)

~~Property shall be eligible for the exemption referred to in subsections (a) and (b) of this section if the appropriate building permits were acquired by the property owner and the rehabilitation indicated on the application was completed subsequent to the inclusion of the property in the Zone as verified by the Commissioner.~~

~~*State law reference — Authority to provide above exemption, Code of Virginia, §§ 58.1-3220(A), 58.1-3221(A); amount and duration of exemption and authority of city relating thereto, Code of Virginia, §§ 58.1-3220(B), 58.1-3221(B).*~~

SECTION 8-42. SUBSTANTIAL REHABILITATION OF COMMERCIAL OR INDUSTRIAL REAL ESTATE.

~~Any commercial or industrial real estate within an Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%) shall qualify for the real estate tax exemptions granted by Winchester City Code § 27-29. (Ord. No. 033-95, 9-12-95)~~

~~For the purposes of this article commercial or industrial real estate shall be deemed to have undergone substantial rehabilitation, renovation or replacement when a structure which is no less than fifteen (15) years of age has been so improved as to increase the assessed value of the structure by no less than 60 percent (60%) without increasing the total square footage of the structure by more than fifteen percent (15%). In the event of complete replacement of such structure, the increase in the total square footage shall be no more than fifteen percent (15%). If the total square footage of such rehabilitated, renovated, or replacement structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article. Rehabilitation, renovation, or replacement shall not include rehabilitation, renovation, or replacement occasioned by damage or destruction by fire, natural disaster or other acts of God.~~

~~*State law reference — Authority for above section, Code of Virginia, § 58.1-3221(A).*~~

SECTION 8-43. DEFINITIONS. SUBSTANTIAL REHABILITATION OF RESIDENTIAL REAL ESTATE.

~~The definitions and eligibility requirements of Division D of Article II of Chapter 27~~

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~~of the Winchester City Code shall apply to this article *mutatis mutandis*. (Ord. No. 033-95, 9-12-95)~~

~~For the purpose of this article, residential real estate shall be deemed to have undergone substantial rehabilitation, renovation or replacement when a structure which is not less than fifteen (15) years of age has been so improved as to increase the assessed value of the structure by no less than 40 percent without increasing the total square footage of this structure by more than fifteen percent (15%). In the event of complete replacement of such structure, the increase in the total square footage shall be no more than fifteen percent (15%). If the total square footage of such rehabilitated, renovated, or replacement structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article. Rehabilitation, renovation, or replacement shall not include rehabilitation, renovation, or replacement occasioned by damage or destruction by fire, natural disaster or other acts of God.~~

~~State law reference—Authority for above section, Code of Virginia, § 58.1-3220(A).~~

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SECTION 8 44. — RESTRICTIONS, OWNER'S APPLICATION

~~No property owner may apply for an exemption under this article on the basis of a building permit issued prior to the establishment of the enterprise zone. (Ord. No. 033-95, 9-12-95)~~

~~State law reference—Authority for above fee, Code of Virginia, §§ 58.1-3220(D), 58.1-3221(D).~~

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DIVISION 4. SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY

SECTION 27-28. HISTORIC REHABILITATION DEFINITIONS.

For the purpose of this division, the following words and phrases shall have the meanings, respectively ascribed to them:

- (a) **SUBSTANTIALLY REHABILITATED HISTORIC RESIDENTIAL REAL ESTATE**, shall mean any residential real estate within the Historic Winchester District (HW), as defined by Article 14 of the Zoning Ordinance of the City of Winchester, 1976, as amended, upon which there is an existing structure which is no less than twenty-five (25) years old, and which has been so improved as to increase the assessed value thereof by no less than forty percent (40%), without increasing the total square footage by more than fifteen percent (15%).
- (b) **SUBSTANTIALLY REHABILITATED HISTORIC COMMERCIAL, ~~OR~~ INDUSTRIAL OR MIXED-USE REAL ESTATE**, shall mean any commercial, ~~or~~ industrial or mixed-use real estate within the Historic Winchester District (HW), as defined by Article 14 of the Zoning Ordinance of the City of Winchester, 1976, as amended, upon which there is an existing structure which is no less than twenty-five (25) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%).
- (c) **AMOUNT OF EXEMPTION**, shall mean an amount equal to the increase in assessed value resulting from the rehabilitation of the structure as determined by the assessing officer, and this amount only shall be applicable to assessment commencing on the first day of January of the year following the rehabilitation. An increase in assessment occurring after the first year of such rehabilitation exemption shall not result in an increase in such exemption.
- (d) **TAXABLE YEAR**, shall mean the calendar year from January first through December thirty-first for which such real property tax is imposed or exemption claimed. (Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92)

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SECTION 27-~~29~~28.1. HISTORIC REHABILITATION EXEMPTIONS DECLARED.

The purpose of this division shall be to provide real estate tax exemptions for substantially rehabilitated residential, commercial, ~~or~~ industrial or mixed-use real estate for a period of ten (10) years, commencing on January first of the year following completion of such rehabilitation. (Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92; Ord. No. 2011-28, 8-9-11)

State Law Reference-- Code of Virginia, §§58.1-3220, *et seq.*

**SECTION 27-~~30~~28.2. HISTORIC REHABILITATION EXEMPTION
ELIGIBILITY REQUIREMENTS.**

Exemptions pursuant to this division shall not become effective unless the persons owning such property have:

- (a) Prior to commencement of a plan to rehabilitate the property, obtained the required building permit and applied for the herein prescribed exemption on a form approved by the Commissioner of the Revenue. Application for exemption must be filed before the work designated by the building permit is begun.
- (b) Paid to the Treasurer an application processing fee in the amount of twenty dollars (\$20.00). No application for the exemption approved by this article shall be deemed to have been filed until the fee herein imposed has been paid.
- (c) Prior to commencement of a plan to rehabilitate the property, contacted the ~~real-estate assessor~~Commissioner of the Revenue to make an assessment of the property in its current condition.
- (d) After rehabilitation of the building, contacted the ~~real-estate assessor~~Commissioner of the Revenue to assess the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records.
- (e) ~~Submitted the application for exemption~~Obtained the final assessment prior to January first of the taxable year for which such exemption is claimed.
(Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92; Ord. No. 2011-28, 8-9-11)

**DIVISION 4A. SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE
PROPERTY**

SECTION 27-29. ENTERPRISE ZONE REHABILITATION DEFINITIONS.

For the purpose of this division, the following words and phrases shall have the meanings, respectively ascribed to them:

- (a) SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE RESIDENTIAL REAL ESTATE, shall mean any residential real estate within the North Loudoun Street District of the Enterprise Zone, but outside the boundaries of the Winchester Historic District, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than

forty percent (40%), without increasing the total square footage by more than fifteen percent (15%).

(b) SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE COMMERCIAL, INDUSTRIAL OR MIXED-USE REAL ESTATE, shall mean any commercial or industrial or mixed use real estate within the Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%). Any commercial, industrial or mixed-use property that possesses or will possess not-for-profit enterprises that amount for more than forty percent (40%) of total improvement space is excluded from receiving this exemption.

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(c) AMOUNT OF EXEMPTION, shall mean an amount equal to the increase in assessed value resulting from the rehabilitation of the structure as determined by the assessing officer, and this amount only shall be applicable to assessment commencing on the first day of January of the year following the rehabilitation. An increase in assessment occurring after the first year of such rehabilitation exemption shall not result in an increase in such exemption.

(d) TAXABLE YEAR, shall mean the calendar year from January first through December thirty-first for which such real property tax is imposed or exemption claimed.

SECTION 27-29.1. ENTERPRISE ZONE EXEMPTIONS DECLARED.

The purpose of this division shall be to provide real estate tax exemptions for substantially rehabilitated residential, commercial, industrial or mixed-use real estate for a period of twelve (12) years, commencing on January first of the year following completion of such rehabilitation.

State Law Reference-- Code of Virginia, §§58.1-3220, et seq.

SECTION 27-29.2. ENTERPRISE ZONE REHABILITATION EXEMPTION ELIGIBILITY REQUIREMENTS.

Exemptions pursuant to this division shall not become effective unless the persons owning such property have:

(a) Prior to commencement of a plan to rehabilitate the property, obtained the required building permit and applied for the herein prescribed exemption on a form approved by the Commissioner of the Revenue. Application for exemption must be filed before the work designated by the building permit is begun.

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(b) Paid to the Treasurer an application processing fee in the amount of twenty dollars (\$20.00). No application for the exemption approved by this article shall be deemed to have been filed until the fee herein imposed has been paid.

(c) Prior to commencement of a plan to rehabilitate the property, contacted the Commissioner of the Revenue to make an assessment of the property in its current condition.

(d) After rehabilitation of the building, contacted the Commissioner of the Revenue to assess the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records.

(e) Obtained the final assessment prior to January first of the taxable year for which such exemption is claimed.

SECTION 27-30. RESERVED.

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B-2014-01

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 21, 2014 **CUT OFF DATE:** __

RESOLUTION X **ORDINANCE** **PUBLIC HEARING**

ITEM TITLE: Adoption of the Enterprise Zone Funding Agreement Resolution between the City and the Winchester Economic Development Authority

STAFF RECOMMENDATION: Approval

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	B		1-8-14
2. _____			
3. _____			
4. _____			
5. City Attorney	aw		1/15/2014
6. City Manager	DI		1-16-14
7. Clerk of Council	DI		1-16-14

Initiating Department Director's Signature:  Date: 1/15/2014

Economic Redevelopment Director



APPROVED AS TO FORM:


CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: January 21, 2014
Re: Adoption of Enterprise Zone Funding Resolution

THE ISSUE: The Winchester Economic Development Authority requires funding to award the economic development incentives identified in the enterprise zone funding agreement

RELATIONSHIP TO STRATEGIC PLAN: Goal 1: Grow the Economy

BACKGROUND: The City was recently awarded Virginia Enterprise Zone designation. The zone goes into effect upon Council's adoption of this resolution and the related enterprise zone ordinance. Additionally, Council approved R2013-26 pledging funding to the incentives

BUDGET IMPACT: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

OPTIONS: Council has the option to approve or reject the proposed resolution.

RECOMMENDATIONS: City Staff recommends that Council adopt the resolution.

RESOLUTION

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF WINCHESTER, VIRGINIA, THAT CERTAIN WINCHESTER VIRGINIA ENTERPRISE ZONE LOCAL INCENTIVES GRANTS FUNDING AGREEMENT DATED AS OF THE TH DAY OF _____, 2014, BY AND BETWEEN THE CITY OF WINCHESTER, VIRGINIA AND THE WINCHESTER ECONOMIC DEVELOPMENT AUTHORITY.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Winchester:

1. That it hereby authorizes the City Manager to execute, and the City Clerk to attest, on behalf of the City of Winchester, Virginia, that certain Winchester Virginia Enterprise Zone Local Incentives Grants Funding Agreement dated as of the th day of _____, 2014, by and between the City of Winchester, Virginia and the Winchester Economic Development Authority.

2. That a copy of the said Funding Agreement is attached hereto and made a part hereof.

3. That this resolution shall be in effect on and after _____, 2014.

**WINCHESTER VIRGINIA ENTERPRISE ZONE LOCAL INCENTIVES GRANTS
FUNDING AGREEMENT**

This Winchester Virginia Enterprise Zone Local Incentives Grants Funding Agreement (hereafter “this Agreement”) is entered into as of this ____ day of _____, 2014, between the CITY OF WINCHESTER, VIRGINIA, a Virginia municipal corporation (hereafter “the City”), and the WINCHESTER ECONOMIC DEVELOPMENT AUTHORITY, a political subdivision of the Commonwealth of Virginia (hereafter “the EDA” or “the authority”). The City and the EDA are collectively referred to as “the Parties.”

RECITALS

Whereas, the Governor of Virginia is authorized to establish enterprise zones within the Commonwealth of Virginia, by Section 58.1-538, et seq. of the Code of Virginia, the boundaries of such enterprise zones to be established by certain eligible Virginia municipal corporations through application made to the Commonwealth and approved by the Governor;

Whereas, an enterprise zone consists of an area within the boundaries of a locality in which certain business enterprises may become eligible to receive financial incentives from the locality for certain investment and job creation activities;

Whereas, the City has determined that the establishment of enterprise zones will foster the development of commercial and industrial businesses to the benefit of the public health, safety, welfare and convenience of the City through the enhancement of public revenues and the creation of employment opportunities;

Whereas, on October 17, 2013, the Governor of Virginia did so designate an enterprise zone in the City of Winchester, to become effective January 1, 2014, in such areas, as may be amended from time to time, that are further described in those official Winchester Virginia Enterprise Zone real estate parcel maps, which shall be retained by the Local Zone Administrator;

Whereas, the EDA is directed by the charter granted to it by the General Assembly of Virginia to participate in economic development activities within the City of Winchester;

Whereas, the EDA is authorized by its charter to exercise all or any of the powers and authority vested in an industrial development authority established under the Industrial Development and Revenue Bond Act, which is set out in Chapter 49 of Title 15.2 of the Code of Virginia, section 15.2-4905;

Whereas, among the powers of industrial development authorities thus granted to the EDA is the power to make grants to any business firm, as later defined herein, for the purpose, among others, of promoting economic development;

Whereas, the City is henceforward willing to consider providing funds to the EDA for the purpose of enabling it to make certain grants within the enterprise zones the Governor has established;

Whereas, the circumstances under which the City is willing to consider providing such funds to any given business firm relate to the nature of its business, to the monetary value of its taxable capital investments, and to its creation of new positions;

Whereas, the City is authorized to enter into agreements with the EDA to contract obligations, both contingent and absolute, and to appropriate, donate or contribute, from tax

revenues or from any other sources, funds to assist the authority in the carrying out of any of the purposes of the act creating the EDA; and

Whereas, the Parties desire to memorialize their agreement with respect to the City's willingness to provide funds to the EDA for the purpose of its making certain Business Development Grants for Vacant Property, Entrepreneurship Incentives, Knowledge-based Job Grants, Major Economic Development Project Incentives, New or Expanding Technology-driven Business Grants, Retail Mix Enhancement Grants and grants and/or provision of in-kind services made by the EDA in order to deliver Major Mixed-Use Development Incentives, (hereafter, collectively, the "Enterprise Zone Local Incentive Grants"), as well as to provide funds to the EDA for the purpose of capitalizing, as and when necessary, certain loan funds, all of which have been pledged by the City, through its application to the Governor for designation of an enterprise zone in the City of Winchester, as local incentives required by the Commonwealth to be offered in enterprise zones as herein specified.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree:

I. Definitions

(a) "Business Firm" means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia, or any subsidiary thereof.

(b) "Enterprise Zone" means a zone created by the Governor of Virginia as authorized by the Code of Virginia, Section 58.1-538 et seq. in such areas, as may be amended from time to time, that are further described in those official Winchester Virginia Enterprise Zone real estate parcel maps which shall be retained by the local zone administrator.

(c) “Grant Period” means the period commencing on the first day of the first tax year for which an Enterprise Zone Local Incentive Grant is payable and ending on the last day of the last tax year for which an Enterprise Zone Local Incentive Grant is payable, unless otherwise defined in an Incentive Agreement. For the purposes of this Agreement, a tax year begins on the first day on which the relevant property is assessed for the first time or on the first day on which a tax upon which an Enterprise Zone Local Incentive Grant is calculated is paid to the City, whichever is applicable.

(d) “Incentive Agreement” means the agreement between the EDA and a Business Firm that is a Qualified Recipient for an Enterprise Zone Local Incentive Grant, which agreement governs the terms and conditions under which the firm may receive and retain Enterprise Zone Local Incentive Grants. For purposes of this section, the term “Enterprise Zone Local Incentive Grant” includes the provision of in-kind services through the Major Mixed-Use Development Incentive. With respect to the Major Mixed-Use Development Incentive, the term “Incentive Agreement” may refer to a development agreement or to a section(s) of a development agreement between the EDA and a Business Firm that is a Qualified Recipient.

(e) “Mixed-use Project” means a tract of land or structure(s) developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public or entertainment and including the on-site infrastructure necessary to support such uses. In the case of a single structure, the structure shall meet the definition of a mixed-use building, as defined in the Code of Virginia, § 59.1-548(A).

(f) “Net Increase,” with respect to any tax, means the positive change of that tax occurring during the Grant Period due to the assessment of a capital investment made by, or caused to be made by, a Qualified Recipient and not by any change in the rate at which such

capital investment is taxed, as compared to the amount of that tax levied upon the Qualified Recipient during a period prior to the Grant Period, as defined in the Incentive Agreement or, if no Incentive Agreement has been executed, as determined by the local zone administrator.

(g) “New Positions” means jobs of indefinite duration at a Business Firm located within an Enterprise Zone requiring each employee to report for work within the Enterprise Zone and requiring: 1) a minimum of 35 hours of the employee's time per week for the entire normal year of the Business Firm's operation, which "normal year" must consist of at least 48 weeks, 2) a minimum of 35 hours of the employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the Business Firm, or 3) a minimum of 1,680 hours per year. “New Positions” shall not include seasonal or temporary positions.

(h) “Post-performance Provision” means a requirement contained in an Incentive Agreement pledging the Qualified Recipient to return all or a portion of Enterprise Zone Local Incentive Grants it has received from the EDA if the Qualified Recipient leaves the Enterprise Zone within five (5) years of receiving its final Enterprise Zone Local Incentive Grant.

(i) “Qualified Amounts” means an amount corresponding to the Net Increase in the various taxes paid by or held in trust by each Qualifying Recipient to the City.

(j) “Qualified Recipient” means the recipient of any Enterprise Zone Local Incentive Grant as further specified herein.

(k) “Qualified Business Development Grant for Vacant Properties Recipient” means a Business Firm, which is new to the City or is expanding and which is located in an Enterprise Zone, which has substantially rehabilitated real property of at least five thousand (5,000) square feet for commercial or mixed-use, which property shall have been vacant for a minimum of two (2) years prior to the commencement of such rehabilitation. A property shall be considered to

have been substantially rehabilitated if the cost of such rehabilitation equals at least seventy-five percent (75%) of the assessed value of the property improvements measured from the last assessment prior to commencement of the rehabilitation, the rehabilitation cost being measured by the construction cost declared on a building permit for the rehabilitation issued by the City plus the cost declared on any receipts for rehabilitation work not requiring a building permit. The Business Firm must also authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(l) “Qualified Entrepreneurship Incentive Recipient” means a new Business Firm located in an Enterprise Zone, fifty percent (50%) of whose market is located outside of the City and Frederick County or which provides a product not currently available in the City (all of which as determined by the EDA in its sole discretion), and which shall: 1) create at least one (1) but not more than nine (9) New Positions (businesses creating more than nine (9) New Positions will not be eligible for the incentive) in an Enterprise Zone within the first twelve (12) months of commencing business operations; 2) acquire a business license from the City; 3) be located in a commercially zoned district; 4) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 5) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(m) “Qualified Knowledge-based Jobs Grant Recipient” means a Business Firm located in an Enterprise Zone which shall: 1) within a twelve (12) month period, create at least ten (10) New Positions which are Knowledge-based Professional Jobs, as herein defined, if newly located in the City, or create at least five (5) New Positions which are Knowledge-based Professional Jobs, if an existing Business Firm in the City (collectively, the “Qualifying Jobs”); 2) pay wages or salaries to holders of the Qualifying Jobs which, averaged, are equal to or above

one hundred and twenty percent (120%) of the City's median annual income as determined by the latest data available from the U.S. Census Bureau; 3) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 4) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee. A Knowledge-based Professional Job is defined as one within one of the following: the architecture and engineering occupations; arts, design, entertainment, sports and media occupations; business and financial occupations, except loan counselors and tax preparers; computer and mathematical occupations; healthcare practitioners (excluding technicians); lawyers; life, physical, and social science occupations; and management occupations.

(n) "Qualified Major Economic Development Project Incentive Recipient" means a Business Firm located in an Enterprise Zone which shall: 1) make a capital investment of at least two million, five hundred thousand dollars (\$2.5 million) within the Enterprise Zone; 2) create at least twenty-five (25) New Positions within the Enterprise Zone whose wages and salaries, averaged, are at least equal to the City's median annual income as determined by the latest data available from the U.S. Census Bureau; 3) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 4) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(o) "Qualified Major Mixed-Use Development Incentive Recipient" means a Business Firm which shall: 1) make a capital investment of at least five million dollars (\$5 million) in a Mixed-use Project located in an Enterprise Zone; 2) sign an Incentive Agreement and 3) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(p) “Qualified New or Expanding Technology-based Business Grant Recipient” means a Business Firm which is a High-Tech Business, as herein defined, located in an Enterprise Zone and which shall: 1) make a one million dollar (\$1 million) capital investment in the Enterprise Zone; 2) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision and 3) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee. A High-Tech Business is defined as one classified in one of the following industry sectors: advanced manufacturing; bio-information and bio-medical; knowledge-producing federal government contractors; and other technology-driven firms, all as determined by the EDA in its sole discretion.

(q) “Qualified Retail Mix Enhancement Grant Recipient” means a Business Firm located in the Downtown or Berryville Avenue areas of the Enterprise Zone and doing business in the retail industry sector which, as determined by the EDA in its sole discretion, are positioned to attract shoppers from beyond the City. Such qualifying Business Firms may include, but are not limited to: art galleries, antique dealers, book stores, “high end” or specialty grocers, high fashion retailers, and specialty item gift stores. For the purpose of administering the Retail Mix Enhancement Grant, the local zone administrator shall delineate and publish the boundaries of the Downtown and Berryville Avenue areas of the Enterprise Zone on official real estate parcel maps of the City of Winchester, Virginia, which shall be retained by the local zone administrator.

(r) “Qualifying Event” means the creation of New Positions and/or capital investment, as the case may be, of such magnitudes as to fulfill the requirements for the definition of a Qualified Recipient for any Enterprise Zone Local Incentive Grant, as described herein.

(s) “Qualifying Wage” means an average level of wages and salaries as herein

specified in the definitions of a Qualified Knowledge-based Jobs Grant Recipient and Qualified Major Economic Development Project Incentive Recipient.

II. Eligibility

The City will provide funds to the EDA for the purpose of its making Enterprise Zone Local Incentive Grants to a Business Firm if 1) the firm is a Qualified Recipient; and 2) it applies for the applicable Enterprise Zone Local Incentive Grant no later than twelve (12) months after the occurrence of the last Qualifying Event, provided that no more than twelve (12) months have transpired between the first Qualifying Event and the last Qualifying Event, unless such period is extended by an Incentive Agreement which is signed prior to the occurrence of the first Qualifying Event; except that, for a Major Mixed-Use Development Incentive, a Business Firm must apply for the incentive prior to the occurrence of the first Qualifying Event and an executed development agreement shall constitute the application for the Major Mixed-Use Development Incentive.

III. Amount and Delivery of Grants

The City will provide funds to the EDA for the purpose of its making Enterprise Zone Local Incentive Grants in amounts and in manners as are described more fully herein.

- A. Business Development Grant for Vacant Properties. The amount of any Business Development Grant for Vacant Properties shall be equal to:
 - a) twenty-five percent (25%) of the Net Increase in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years,

- if the substantially rehabilitated structure is at least five thousand (5,000) square feet but no more than twenty thousand (20,000) square feet;
- b) fifty percent (50%) of the Net Increase in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years, if the substantially rehabilitated structure is more than twenty thousand (20,000) square feet but no more than forty thousand (40,000) square feet;
 - c) one hundred percent (100%) of the Net Increase a in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years, if the substantially rehabilitated structure exceeds (40,000) square feet.

Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified Business Development Grant for Vacant Properties Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Business Development Grant for Vacant Properties Recipient who has applied for the Business Development

Grant for Vacant Properties, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Business Development Grant for Vacant Properties.

- B. Entrepreneurship Incentive. The amount of any Entrepreneurship Incentive shall be equal to fifty percent 50% of the cost of website design and construction, up to a maximum amount of one thousand dollars (\$1,000); plus fifty percent (50%) of the cost of website hosting or high speed internet access, up to a maximum amount of five hundred dollars (\$500); plus a two hundred (200) basis point reduction on a Winchester Enterprise Zone Micro-loan, if the Qualified Entrepreneurship Recipient is approved by the EDA for such loan. A Qualified Entrepreneurship Incentive Recipient shall not be delinquent in the payment or remittance of any taxes or fees to the City. The EDA shall pay such grants to a Qualified Entrepreneurship Incentive Recipient who has applied for the Entrepreneurship Incentive, and whose application has been approved by the EDA Board from such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Entrepreneurship Incentive.
- C. Knowledge-based Jobs Grant. The amount of any Knowledge-based Jobs Grant shall be equal to the sum of one thousand dollars (\$1,000) multiplied by the number of qualifying Knowledge-based Professional Jobs, up to a maximum amount of twenty-five thousand dollars (\$25,000). A Qualified Knowledge-based

Jobs Grant Recipient shall not be delinquent in the payment or remittance of any taxes or fees to the City. The EDA shall pay such grants to a Qualified Knowledge-based Jobs Grant Recipient who has applied for the Knowledge-based Jobs Grant, and whose application has been approved by the EDA Board from such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Knowledge-based Jobs Grant.

D. Major Economic Development Project Incentive. The amount of any Major Economic Development Project Incentive shall be equal to one hundred percent (100%) of the Net Increase in any and all taxes paid to the City by a Qualified Major Economic Development Project Incentive Recipient during a Grant Period equal to three (3) years. Such funds shall be provided only upon actual receipt of such taxes by the City and under condition that the Qualified Major Economic Development Project Incentive Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Major Economic Development Project Incentive Recipient who has applied for the Major Economic Development Project Incentive, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Major Economic Development Project Incentive. An approved application for the Major Economic Development Project Incentive shall be a fully executed Incentive Agreement. If the Qualified Major Economic

Development Project Incentive Recipient receives any other Enterprise Zone Local Incentive Grant, then the sum of all such Enterprise Zone Local Incentive Grants shall not exceed the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period. If the sum of all such Enterprise Zone Local Incentive Grants exceeds the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period, then the amount of the Major Economic Development Project Incentive shall be reduced to equal the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period. The Incentive Agreement entered into by the Qualified Major Economic Development Project Incentive Recipient shall provide that any amount of the Major Economic Development Project Incentive received by the Qualified Major Economic Development Project Incentive Recipient in excess of the maximum amount of the Major Economic Development Project Incentive so determined (the "Excess Grant Amount") shall be paid by the Qualified Major Economic Development Project Incentive Recipient to the EDA and the EDA shall remit such amount to the City. The Incentive Agreement may alternatively provide that the Excess Grant Amount may be reduced or eliminated by reducing the amounts due to the Qualified Major Economic Development Project Incentive Recipient from other Enterprise Zone Local Incentive Grants.

E. Major Mixed-Use Development Incentive. The amount or value and nature of the

Major Mixed-Use Development Incentive provided by the EDA to a Qualified Major Mixed-Use Development Incentive Recipient shall be specified in an Incentive Agreement and shall be an amount or value equal to at least thirty-five percent (35%) but not more than sixty-five percent (65%) of the Net Increase in all taxes paid to the City derived from the qualifying Mixed-use Project. The EDA may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive to a Qualified Major Mixed-Use Development Incentive Recipient as a cash grant or as a series of cash grants. The EDA may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive by providing in-kind services for the benefit of the Qualified Major Mixed-Use Development Incentive Recipient, including, but not limited to, such services as: site assemblage, land cost write-down or below-market sale of property, provision of on or off-site public infrastructure, provision of public facilities, the issuance and/or payment by the EDA of debt service on a bond(s), or provision of favorable financing terms. The EDA's provision of such in-kind services may require the City to provide funds to the EDA in order that the EDA may affect the provision of such services in whole or in part. Additionally or alternatively, the City or its agent may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive by directly providing in-kind services for the benefit of the Qualified Major Mixed-Use Development Incentive Recipient and/or the public welfare, including, but not limited to, such services as: abandonment of public rights-of-way, provision of on or off-site public infrastructure, provision of public facilities, or provision of favorable

financing terms. The amount and mode of delivery of the Mixed-Use Development Incentive, whether by grant(s), in-kind services delivered by the EDA, or in-kind services delivered by the City, or any combination of the above shall be specified in the Incentive Agreement governing that Major Mixed-Use Development Incentive.

- F. New or Expanding Technology-based Business Grant. The amount of any New or Expanding Technology-based Business Grant shall be equal to fifty percent (50%) of the Net Increase in any and all taxes paid to the City tax by a Qualified New or Expanding Technology-based Business Grant Recipient during a Grant Period equal to five (5) years. Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified New or Expanding Technology-based Business Grant Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified New or Expanding Technology-based Business Grant Recipient who has applied for the New or Expanding Technology-based Business Grant, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the New or Expanding Technology-based Business Grant. An approved application for the New or Expanding Technology-based Business Grant shall be a fully executed Incentive Agreement. If the Qualified New or Expanding Technology-based Business Grant Recipient is also a Qualified Major Economic Development Project Incentive Recipient, the Incentive Agreement may contain a provision to

reduce or eliminate the Excess Grant Amount.

- G. Retail Mix Enhancement Grant. The amount of any Retail Mix Enhancement Grant shall be equal to fifty percent (50%) of the Net Increase in any and all of the taxes delineated herein (the "Retail Mix Enhancement Grant Taxes") paid to the City by a Qualified Retail Mix Enhancement Grant Recipient during a Grant Period equal to the first twelve (12) months of operation of the Business Firm. The Retail Mix Enhancement Grant Taxes include: the business license fee, or business professional and occupational license (BPOL) tax; the food and beverage, or meals, tax; and the local option sales tax. Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified Retail Mix Enhancement Grant Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Retail Mix Enhancement Grant Recipient who has applied for the Retail Mix Enhancement Grant, and whose application has been approved by the EDA Board, at the end of the Grant Period and upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Retail Mix Enhancement Grant. The Retail Mix Enhancement Grant shall be used by the Qualified Retail Mix Enhancement Grant Recipient for the sole purpose of the bona fide marketing expenses incurred during pre-opening and the first year of operation of the Business Firm (the "Eligible Expenses") and the amount of the Retail Mix Enhancement Grant shall be limited to the amount of the Eligible Expenses. The Qualified Retail Mix Enhancement Grant Recipient shall provide the EDA with

evidence of the Eligible Expenses prior to the EDA's disbursement of the Retail Mix Enhancement Grant.

H. With respect to the Business Development Grant for Vacant Properties, Major Economic Development Project Incentive, New or Expanding Technology-based Business Grant and Retail Mix Enhancement Grant (collectively, the "Tax-based Grants"), the following procedure shall be implemented in order to provide the necessary funding for the Tax-based Grants.

- a) Annually, the local zone administrator shall provide to the director of finance an estimate of the total amount to be disbursed to Qualified Recipients of the Tax-based Grants during the forthcoming fiscal year. Upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required for disbursement to fulfill the EDA's obligations to fund the Tax-based Grants.
- b) Semi-annually, the local zone administrator shall verify with the commissioner of the revenue and the city treasurer the amounts of the various taxes paid by each Qualifying Recipient to the City.
- c) Semi-annually, upon receiving verification from the commissioner of the revenue and the city treasurer the amounts of the various taxes paid by each Qualifying Recipient to the City, the local zone administrator shall request the EDA to invoice the City for the Qualified Amounts and the director of finance shall transfer the Qualified Amounts from the City to the EDA.

- d) Upon receipt of such funds from the City, the EDA shall disburse the various Tax-based Grants in the appropriate amounts to the appropriate Qualified Recipients.
- I. With respect to the Entrepreneurship Incentive and Knowledge-based Jobs Grant (the “Direct Grants”), the following procedure shall be implemented in order to provide the necessary funding for the Direct Grants.
 - a) Upon securing an eligible applicant and being invoiced by the EDA, the City shall transfer the full amount of the applicable incentive to the EDA in order to fund the Entrepreneurship Incentive and the Knowledge-based Jobs Grant.
 - b) Annually, upon being invoiced by the EDA, the City shall transfer to the EDA such amounts as are determined to be necessary to fully fund the Entrepreneurship Incentive and the Knowledge-based Job Grant.
- J. With respect to the Major Mixed-Use Development Incentive, upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required by various Incentive Agreements to be necessary for the EDA to fulfill its obligations under said Incentive Agreements.
- K. With respect to the Business Growth Revolving Loan Fund, the Commercial Façade Program, the Real Estate Revolving Loan Fund and the Winchester Enterprise Zone Micro-loan Fund (collectively, the “Loan Funds”), upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required by various Incentive Agreements to

be necessary for the EDA to fulfill its obligations under said Incentive Agreements.

- L. No reference to the timing of payments of Local Enterprise Zone Incentive Grants provided herein shall preclude a reasonable period for verification and processing of payments from being assumed to be included in or be in addition to those timings referenced herein.

IV. Approval of Incentive Agreements

Notwithstanding anything to the contrary expressed or implied by the terms of this Agreement, the City retains the right in its discretion to approve or disapprove any proposed Incentive Agreement for a Major Mixed-Use Development Incentive negotiated pursuant to the terms of this Agreement without regard to whether the proposed qualifying activity provides the minimum taxable capital investment and meets the minimum job creation criterion. No Incentive Agreement for a Major Mixed-Use Development Incentive may be executed by the EDA without first being authorized by a resolution of the City Council of the City of Winchester.

V. Execution in Counterparts

This Agreement may be executed in any number of counterparts, each of which when fully executed shall be deemed to be an original.

**WINCHESTER ECONOMIC
DEVELOPMENT AUTHORITY**

Chairman

ATTEST:

Secretary of the Winchester
Economic Development Authority

APPROVED AS TO FORM:

Counsel for the Winchester
Economic Development Authority

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: Jan. 21, 2014 **CUT OFF DATE:** _____

RESOLUTION ___ **ORDINANCE** ___ **PUBLIC HEARING** ___ **DISCUSSION X**

ITEM TITLE: City Council Consideration of Implementing a Storm Water Utility - Discussion #3 - Storm Water Operational and Maintenance Needs

STAFF RECOMMENDATION: NA

PUBLIC NOTICE AND HEARING: NA

ADVISORY BOARD RECOMMENDATION: NA

FUNDING DATA: See attached.

INSURANCE: NA

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<u>B</u>		<u>1-13-14</u>
2. City Attorney	<u>AV</u>		<u>1/14/2014</u>
3. City Manager	<u>[Signature]</u>		<u>1-16-14</u>
4. Clerk of Council	<u>[Signature]</u>		<u>1-16-14</u>
Initiating Department Director's Signature:	<u>[Signature]</u>		<u>1/13/14</u> Date



APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: January 21, 2014 (Council work session)
Re: Proposed Storm Water Utility – Discussion #3 – Operation and Maintenance Needs

THE ISSUE: Consideration of Implementing a Storm Water Utility – Operation and Maintenance Needs Related to the Storm Water System

RELATIONSHIP TO STRATEGIC PLAN: **Goal 4:** Create a More Livable City for All. Specifically, **Policy Agenda Item #6:** Develop a storm water management policy with policy directions, project priority and funding mechanisms, which could include the establishment of a storm water utility.

BACKGROUND: The City of Winchester is facing some significant operational expenditures in the coming years related to the operation and maintenance of the City's storm water system. These expenditures will be necessary to meet increasingly more stringent state and federal storm water regulations and to provide increased maintenance of the storm water system to change the current operation from a "reactive mode" to a "proactive mode". A storm water utility would provide a funding mechanism to pay for these increased expenditures that would otherwise likely fall on the General Fund to provide this funding.

For purposes of this discussion, the operational and maintenance needs related to storm water will be broken out into the three primary categories:

- A. New Regulatory requirements.
- B. Existing operational and maintenance activities related to the City's storm water system.
- C. Improved maintenance of the City's storm water system that would change the current operational mode from a reactive mode to a proactive mode.

Details on each of these categories are provided on the attached sheets.

RECOMMENDED ACTIONS:

The following actions are recommended to ensure that the City maintains compliance with all stormwater regulations and to ensure that the City's stormwater drainage system operates correctly and efficiently:

1. Hire a Stormwater Engineer position in July 2014. Estimated annual cost is approximately \$85,000.
2. Add an additional street sweeper to the City's street sweeping program in July 2015. Estimated annual cost is \$75,000.
3. Add three additional employees to the Public Works Division in July 2015 so that there is one crew that is devoted solely to the maintenance of the City's stormwater drainage system. Estimated annual cost is \$175,000.
4. Conduct a detailed inventory, mapping, and condition evaluation of the City's stormwater drainage system over the next 2 to 3 years and develop a master plan of infrastructure replacements and improvements that are needed. Estimated cost to complete this activity is approximately \$300,000.

The proposed funding source for the \$335,000 in additional annual expenditures listed above and the one-time cost of \$300,000 to complete the system inventory, mapping, and master plan is the implementation of a stormwater utility.

BUDGET IMPACT: The following table summarizes the current and proposed annual expenditures related to the ongoing operation and maintenance of the City's stormwater system that could be funded by a proposed stormwater utility.

Description	Annual Cost
Hire a Stormwater Engineer (July 2014).	\$85,000
Add one additional Street Sweeper (July 2015) to the City's street sweeping program.	\$75,000
Add three new positions to Public Works (July 2015) so that there is one crew devoted solely to maintenance of the City's drainage system.	\$175,000
Current stormwater maintenance completed by Public Works funded by VDOT funds. These funds could be used instead for street paving and sidewalks.	\$250,000
Current stormwater related activities completed by Utilities and Engineering funded by Utility funds. These funds could be used instead for continued water and sewer infrastructure replacements.	\$300,000
Current stormwater activities funded by the General Fund. These funds could be used for other purposes in the General Fund.	\$60,000
Current utility billing activities that could be funded by a stormwater utility. These funds could be used instead for continued water and sewer infrastructure replacements.	\$100,000

OPTIONS FOR CITY COUNCIL:

No action from City Council is required at this time. The current schedule calls for City Council to take action on the proposed Storm Water Utility in May/June 2014.

City of Winchester
Stormwater System Operational and Maintenance Issues

A. New Stormwater Regulations

1. Virginia Stormwater Management Program

The state has recently enacted legislation that will require the City to implement and manage the Virginia Stormwater Management Program beginning on July 1, 2014. Previously, the state administered this program which applies to all new developments over 1 acre in size. Implementing and managing this program will require extensive additional City resources to review proposed new stormwater facilities, inspect these facilities during construction, and ongoing inspections to ensure that the stormwater facilities are operating properly.

To successfully implement and manage all the requirements of the Virginia Stormwater Management Program, the Public Services Department, through the FY15 budget process, is requesting that a Stormwater Engineer position be added on July 1, 2014. In addition to managing the Virginia Stormwater Management Program, this position will also be very involved assisting in the following areas:

- a. Ensuring compliance with the City's Municipal Separate Storm Sewer System Permit (MS4).
- b. Management of the City's participation in the National Flood Insurance Program and efforts related to the participating in the Community Rating System which could help lower premiums for flood insurance policies within the City.
- c. Design and construction of stormwater capital improvement projects.
- d. Maintaining and regularly updating the database of property impervious areas used for billing stormwater utility fee (if stormwater utility is implemented).

The estimated total annual cost to add a Stormwater Engineer position is approximately \$85,000 per year.

2. Quality of Stormwater Runoff

In order to meet more stringent stormwater quality regulations, the City will need to increase its current street sweeping program by approximately 50%. As the City currently

operates two street sweepers on a continual basis, one additional street sweeper will need to be added.

The estimated total annual cost to operate an additional street sweeper is approximately \$75,000 per year (this includes the cost of one additional employee). This proposed additional street sweeper would be added in July 2015.

B. Existing and Operational and Maintenance Activities

1. Public Works Division (Highway Maintenance Fund)

The Public Works Division currently does spend significant resources on the current street sweeping program and maintaining the stormwater drainage system. It is estimated that this expenditure is approximately \$250,000 per year which comes from the maintenance funds the City receives annually from VDOT. Implementing a stormwater utility would provide an alternate funding mechanism for this expenditure and would allow the \$250,000 in annual VDOT funds to be used for street paving and sidewalks, both of which are City Council priorities.

2. Utilities and Engineering

The Utilities and Engineering Division also spends significant resources annually on stormwater related activities. These activities include: ensuring compliance with the City's MS4 permit, participation in the National Flood Insurance Program, administering and enforcing soil erosion and sediment control regulations, and the design and construction of stormwater infrastructure improvements. It is estimated that the annual expenditure for these activities is approximately \$300,000. A stormwater utility would provide an alternate funding mechanism for these expenditures and would allow these utility funds to be used for continued water and sewer infrastructure replacement.

3. General Fund

The General Fund currently expends approximately \$60,000 per year on operational and maintenance activities related to stormwater. These activities include engineering consulting, GIS, and the mowing of some drainage areas completed by the Parks Department.

C. Expanded Operational and Maintenance Activities

While the Public Works Division does spend a considerable amount of time maintaining the stormwater drainage system, their staff resources are limited. Exhibit A shows the current organizational structure of the Public Works Division related to streets and stormwater.

As can be seen, there is only one crew of four employees that is available for maintaining the overall stormwater system. Unfortunately, these employees are also responsible for a multitude of other tasks so they are limited to the amount of time spent maintaining the City's large and complex stormwater system. Due to these limited resources, the current operational mode is one that is reactive in addressing problems that occur.

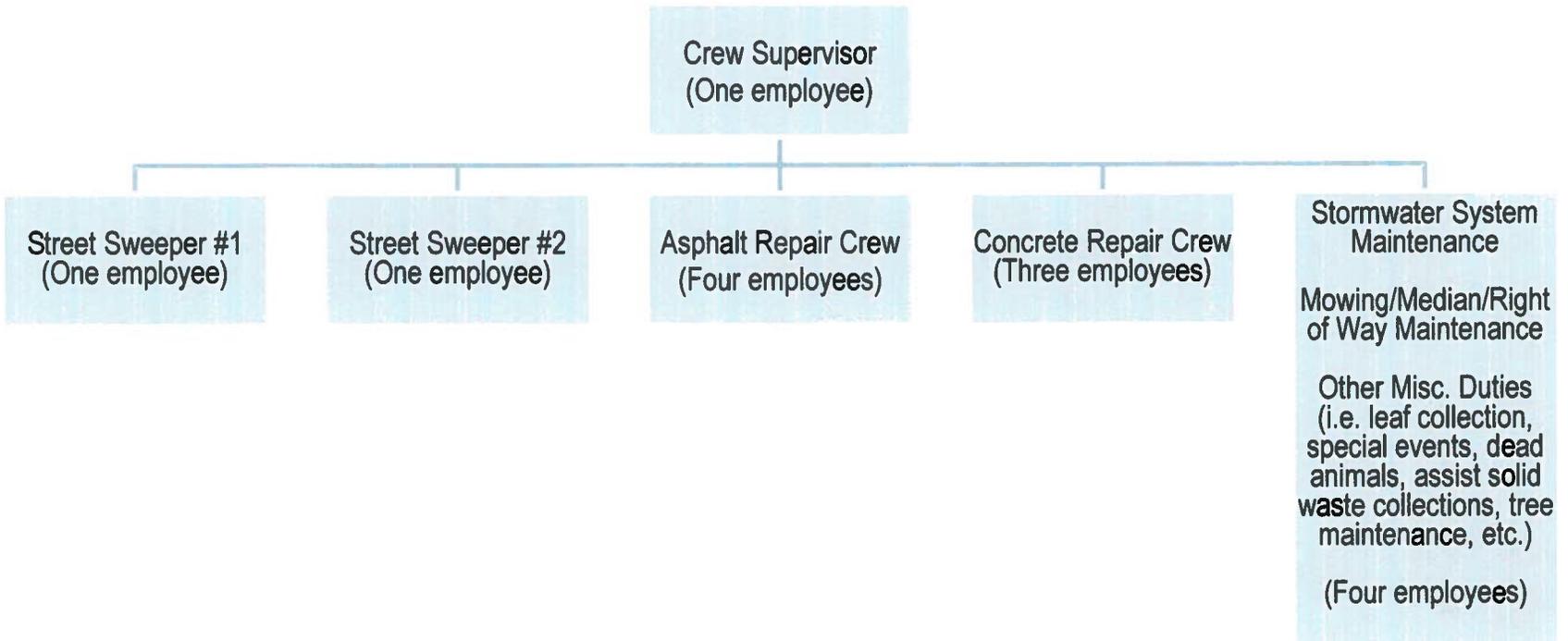
In order to modify the operational mode to become proactive in maintaining the drainage system to ensure the system operates properly and problems are prevented, additional resources are necessary. The Public Services Department is recommending that three additional employees be added so that there is one crew that is devoted solely to the maintenance of the City's stormwater drainage system.

The estimated cost of adding this additional crew is approximately \$175,000 per year which could be funded by implementing a stormwater utility. This proposed crew would be added in July 2015.

D. Utility Billing

If a stormwater utility fee is approved by City Council, the most cost effective way to bill and collect this fee would be to utilize the current water and sewer utility bills. This would also have the benefit in that the stormwater utility could help pay for a portion of the existing expenditures related to utility billing. Overall, it is estimated that approximately \$100,000 in annual utility billing expenditures could be paid for by a stormwater utility which in turn would allow these water/sewer funds to be used for continuing water and sewer infrastructure replacements.

Exhibit A – Existing Organizational Chart Public Works Division - Streets



0-2013-40

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: Jan. 21, 2014 **CUT OFF DATE:** _____

RESOLUTION ___ **ORDINANCE XX** **PUBLIC HEARING XX**

ITEM TITLE: An ordinance to amend Chapter 9 - "Water Protection" of the Winchester City Code to comply with all applicable regulations of the Virginia Stormwater Management Program.

STAFF RECOMMENDATION: Adopt the ordinance.

PUBLIC NOTICE AND HEARING: Will be required.

ADVISORY BOARD RECOMMENDATION: NA

FUNDING DATA: See attached.

INSURANCE: NA

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<u>B</u>	_____	<u>1-13-14</u>
2. City Attorney	<u>[Signature]</u>	_____	<u>1/14/2014</u>
3. City Manager	<u>[Signature]</u>	_____	<u>1/15/14</u>
4. Clerk of Council	_____	_____	_____
Initiating Department Director's Signature:	<u>[Signature]</u>	_____	<u>1/13/14</u> Date



APPROVED AS TO FORM:

[Signature] 1/14/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Perry Eisenach, Public Services Director
Date: January 21, 2014 (Council work session)
Re: Modifications to Chapter 9 – “Water Protection” of the Winchester City Code

THE ISSUE: An ordinance to amend Chapter 9 – “Water Protection” of the Winchester City Code to comply with all applicable regulations of the Virginia Stormwater Management Program.

RELATIONSHIP TO STRATEGIC PLAN: **Goal 4:** Create a More Livable City for All.

BACKGROUND: The Commonwealth of Virginia has adopted legislation that requires the City of Winchester to implement and enforce all applicable provisions of the Virginia Stormwater Management Program (VSMP). The deadline for implementing all these requirements is July 1, 2014.

The attached ordinance would make the necessary modifications to Winchester City Code Chapter 9 – “Water Protection” so that the City is in compliance with State Code.

NOTE: This ordinance was first presented to Council at the work session on November 19, 2013. The state made some minor revisions to their requirements in December and those changes are shown in yellow highlighted text on the attached ordinance. The ordinance is now ready for Council action.

BUDGET IMPACT: Implementing and enforcing these new regulations will have an impact on the City’s budget as additional resources will be required. Additional information regarding this will be provided during Discussion #3 regarding a proposed Storm Water Utility at the Council work session on January 24, 2014.

OPTIONS FOR CITY COUNCIL:

Either adopt or not adopt the proposed ordinance.

RECOMMENDATION:

Adopt the proposed ordinance.

CHAPTER 9

WATER PROTECTION

- Art. I. In General, §§9-1--9-19
- Art. II. Erosion and Sediment Control, §§9-20--9-49
Div. 1. In General, §§9-20--9-29
Div. 2. Erosion and Sediment Control Plan for
Land Disturbing Activities, §§9-30--9-49
- Art. III. Stormwater Management and Water Quality, §§9-50--9-79
Div. 1. In General, §§9-50--9-55
Div. 2. ~~Plan Requirements: Water Quantity and Water
Quality Protection~~Requirements for Water Quantity and Water Quality
Protection, §§9-56--9-79
- Art. IV. Stream Buffers, §§9-80--9-99
- Art. V. Storm Sewer Discharges, §§9-90--9-95

ARTICLE I. IN GENERAL

SECTION 9-1. SHORT TITLE.

This Chapter shall be known and may be cited as the City's "Water Protection Ordinance."

SECTION 9-2. AUTHORITY.

This Chapter is adopted pursuant to authority conferred by the Virginia Erosion and Sediment Control Law (Virginia Code §§ 10.1-560 et seq.), the Virginia Stormwater Management Act (Virginia Code §§10.1-603.1~~2~~ et seq.), Virginia Code §10.1-2108 of the Chesapeake Bay Preservation Act, and the Federal Clean Water Act.

SECTION 9-3. PURPOSES.

The City Council finds that this Chapter is necessary to protect the general health, safety and ~~general~~ welfare of the citizens of the City and the Commonwealth of Virginia and to prevent stormwater from being rendered dangerous to the health of persons living in the City, and is supported by the findings of related studies that have been conducted. Therefore, the specific purposes of this Chapter are to:

Editor's Note: Ordinance No. 15-2006, adopted April 11, 2006, repealed and re-enacted Chapter 9 in its entirety.

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- (1) Inhibit the deterioration of public waters and waterways resulting from land disturbing activities;
- (2) Protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater runoff from new land development and redevelopment;
- (3) Control nonpoint source pollution, erosion and sedimentation, and stream channel erosion;
- (4) Maintain the integrity of existing stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;
- (5) Protect the condition of public waters for all reasonable public uses and ecological functions;
- (6) Provide for the long-term responsibility for and maintenance of stormwater management facilities and best management practices;
- (7) Facilitate the integration of stormwater management and pollution control with other City ordinances and with federal, Commonwealth of Virginia and local programs, policies, regulations and guidelines; ~~and~~
- (8) Prohibit illicit connections and discharges to the City's municipal storm sewer system;
- (9) Protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources;
- (10) Provide the framework for the administration, implementation, and enforcement of the provisions of the Virginia Erosion and Sediment Control Act and Virginia Stormwater Management Act and their attendant regulations by the City;
- (11) Establish a local Virginia Stormwater Management Program (VSMP) consistent with the requirements of §62.1-44.15:27 of the Code of Virginia;
- (12) Establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced; and
- (13) Establish the procedures and requirements to be followed in connection with land disturbance permits and VSMP authority permits issued by the City.

SECTION 9-4. RULES OF CONSTRUCTION.

This Chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. The following rules of construction shall apply in the construction of this Chapter, unless such application would be contrary to the purposes of this Chapter or the context clearly indicates otherwise:

- (1) All references to any statute, ordinance, regulation, guideline, handbook, manual or standard shall be to such statute, ordinance, regulation, guideline, handbook, manual or standard as it exists on the date of adoption of this Chapter and includes any amendment thereafter or reissue in a subsequent edition.
- (2) Any reference to "this Article," "Article II," "Article III," or "Article IV"

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shall include references to all applicable references of Article I. (3) All references to “days” shall be to calendar days.

- (4) All references to a “fee schedule” shall mean and refer to a schedule of the fees and charges associated with the various applications, inspections, permits and approvals required by this Chapter, as approved and amended by the City Council from time to time. All required fees shall be made payable to the City Treasurer.

SECTION 9-5. DEFINITIONS.

The following terms, whenever used or referred to in this Chapter, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this Chapter:

Administrator or Program Administrator means the City Engineer for the City of Winchester, Virginia.

Agreement in lieu of a plan means a contract between the program authority and the owner which specifies conservation measures which must be implemented in the construction of a single family residence; this contract may be executed by the program authority in lieu of a formal erosion and sediment control plan.

Applicant means any person submitting a plan for approval, or applying for or requesting the issuance of a permit, when required, under this Ordinance authorizing land disturbing activities to commence.

Authorized City Official means includes any officer or employee of the department of Public Services and Engineering authorized by the City Engineer to act pursuant to this Chapter, except for where the context clearly indicates otherwise.

Best management practices (“BMP’s”) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices and facilities, both structural and nonstructural, to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, ~~receiving waters, or~~ stormwater conveyance systems, and other receiving waters, including surface waters and groundwater. BMP’s also include treatment practices, operating procedures, and practices to control site runoff, stormwater discharges from land disturbing activities, spillage or leaks, or combination of practices that is determined by the Commonwealth of Virginia, ~~a designated area-wide planning agency,~~ or the program authority, to be the most effective, practical means of preventing or reducing the amount of surface water runoff and pollution generated by nonpoint sources to a level compatible with water quality goals.

Board or State Board means: ~~(i) as used in Article I, the Virginia Soil and Water Conservation Board, and (ii) as used in Article II, the Virginia Board of Conservation and Recreation~~ State Water Control Board.

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Certified inspector means an employee or agent of the program authority implementing the City's local erosion and sediment control program or stormwater management program who (1) holds a certificate of competence from the Virginia ~~Soil and Water Conservation~~State Water Control Board in the area of project inspection or (2) is enrolled in that Board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

Certified plan reviewer means an employee or agent of the program authority implementing the City's local erosion and sediment control program or stormwater management program, who (1) holds a certificate of competence from the Virginia ~~Soil and Water Conservation~~State Water Control Board in the area of plan review, (2) is enrolled in that Board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (3) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Virginia Code § 54.1-400, et seq.

Certified program administrator means an employee or agent of the program authority implementing the City's local erosion and sediment control program or stormwater management program who (1) holds a certification of competence from the Virginia ~~Soil and Water Conservation~~State Water Control Board in the area of program administration, or (2) is enrolled in that Board's training program for program administration and successfully completes such program within one (1) year after enrollment.

Channel means a natural stream or human-made waterway.

City means the City of Winchester, Virginia.

Clean Water Act (CWA) means the Federal Water Pollution Control Act (33 U.S.C. §-1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, and any subsequent amendments thereto.

Common plan of development or sale means a contiguous area where separate and distinct construction activities occur at different times or according to different schedules.

Conservation plan, ~~erosion and sediment control plan or plan and specifications~~ means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with necessary interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Conservation standards, criteria or specifications means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the

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program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the Virginia ~~Soil and Water Conservation~~ State Water Control Board or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia ~~Department of Conservation and Recreation~~ Department of Environmental Quality.

Construction record drawing means a drawing or plan showing the exact dimensions, geometry, and location of completed stormwater management facilities.

Control measure means any best management practice or stormwater management facility, or other method used to minimize the discharge of pollutants to state waters.

DEQ or VDEQ means the Virginia Department of Environmental Quality.

Development, land development and land development project as used within this Chapter each refer to any manmade change to, or construction on, a land surface that potentially changes its runoff characteristics, or the landform resulting from any such manmade change to the land surface or associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, or the clearing of land for purposes other than agricultural or silviculture. A land disturbing activity as defined herein shall be considered land development for the purposes of administering this Chapter.

Director, for the purposes of Article V of this Chapter, shall mean and include the City's Director of Public Utilities or the City Engineer, and the employees and agents authorized by either of them to exercise authority or to take enforcement action under the provisions of Article V.

Discharge means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, and also refers to that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

Drainage Basin means a watershed.

Erosion and sediment control plan means a document which sets forth the major soil and water resources conservation measures that will be implemented to assure that the unit or units of land will be so treated to achieve the conservation objectives of this Chapter, and which may also include appropriate illustrations in the form of maps or a site plan, and appropriate narratives, such as a soil and water plan inventory and management information with needed interpretations, a record of decisions contributing to conservation treatment, and any specifications submitted with the plan.

Erosion impact area means an area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of five thousand (5,000) square feet or less used for residential purposes.

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General Permit means the state permit titled “General Permit for Discharges of Stormwater from Construction Activities” found in 9VAC25-880-1 et seq. of the regulations authorizing a category of discharges under the federal Clean Water Act and the Virginia Stormwater Management Act within a geographical area of the Commonwealth of Virginia.

Illegal discharge and illicit discharge each means and refers to any discharge to the City’s municipal separate storm sewer system (“MS4”) that is not composed entirely of stormwater, except: (i) discharges pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this Chapter.

Illicit connection means either of the following: (i) any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the Program Authority; or (ii) any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records approved by the Program Authority.

Land disturbance or land disturbing activity means a man-made change to the land surface that potentially changes its runoff characteristics, or any such land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands in the City or adjacent jurisdictions, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except provided that the term shall not include the exempt activities set forth in Sec. 9-50 for purposes of administering Article III of this Chapter, and provided further that, for the purposes of administering Article II of this Chapter, the term shall not include :

- (1) Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work that ~~are disturb~~ less than five thousand (5,000) square feet;
- (2) Installation, maintenance or repair of any ~~other~~ underground public utility mains or lines, when such activity occurs on an existing hard surfaced road, street or sidewalk and the land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced;
- (3) Construction, installation, maintenance or repair of any type of individual utility service connections;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of a building to be served by a septic tank system;
- (5) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (6) Disturbed land areas of less than five thousand (5,000) square feet in size;
- (7) Installation of fence and sign posts or telephone and electric poles and

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other kinds of posts or poles;

- (8) Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be ~~shaped and established~~ stabilized in accordance with the requirements of the Virginia Erosion and Sediment Control Handbook;
- (9) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
- (10) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of §10.1-1163 of the Code of Virginia; and
- (11) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§10.1-604 et seq.) of Chapter 6, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.

Layout means a conceptual drawing containing sufficient information, as determined by the program administrator, to provide for the specified stormwater management facilities required at the time of approval.

Linear development means a land development that is linear in nature, such as (but not limited to): (i) the construction of electric and telephone utility lines and natural gas pipelines; (ii) the construction of railroad tracks, rights-of-way, bridges, communication facilities and related facilities; and (iii) highway construction projects.

Local erosion and sediment control program means an outline of the various methods employed by the City to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, City ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Minor modification means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in

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sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Mitigation plan means a plan, a component of a stormwater management/BMP plan, erosion and sediment control plan, or an agreement in lieu of a plan that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Winchester and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

Nonpoint source pollution means pollution whose sources cannot be pin-pointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

Operator means the owner or operator of any facility or activity subject to regulation under this Ordinance

Owner means the owner of the freehold of land, or the owner of a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property. As used herein, *owner* also refers to, in the appropriate context: (i) any person authorized to act as the agent for the owner, (ii) any person who submits an erosion and sediment control plan or stormwater management plan for approval, or requests issuance of a permit, when required, authorizing land disturbing activities or land development to commence, and (iii) any person responsible for complying with an approved erosion and sediment control plan, agreement in lieu of a plan, or an approved stormwater management plan.

Permit means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the City as a prerequisite to any land development.

Permittee means (i) the person to whom a permit authorizing land disturbing activities is issued, (ii) the person who certifies that an approved erosion and sediment control plan will be followed, ~~or~~ (iii) the person who certifies that an approved stormwater management plan will be followed, or (iv) the person to whom the VSMP Authority Permit is issued.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state, county, City, town or other political subdivision of this state, federal, state, or local governmental body, ~~any~~-interstate body, or any other legal entity.

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Plan Approving Authority means the City Engineer of the City of Winchester, Virginia, who is responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of land and for approving plans.

Pollutant refers to, without limitation, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances and accumulations; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues resulting from construction of a building or structure; noxious or offensive matter of any kind; and other, similar substances that cause or contribute to water pollution.

~~*Program Administrator* means the City Engineer for the City of Winchester, Virginia.~~

Program Authority means the department of Public Services and Engineering. Except for where the context clearly indicates otherwise, the term “program authority” includes any officer or employee of the department of Public Services and Engineering authorized by the City Engineer to act pursuant to this Chapter.

Public waters means and refers to the waters refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

Redevelopment for purposes of this Chapter means and refers to construction of buildings and structures as replacement(s) for existing improvements.

~~*Regulations* means the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-870, as amended, unless otherwise specified.~~

Residential development means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three or more residential dwelling units.

~~*Site* means the land or water area where any facility or land disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land disturbing activity.~~

~~*State* means the Commonwealth of Virginia.~~

~~*State permit* means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Virginia Stormwater Management Program (VSMP) Regulations.~~

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State waters means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Storm sewer system means the City's municipal system of roads, streets, catch basins, retention and detention basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the City which are designed or used for collecting, storing or conveying stormwater, or through which stormwater is collected, stored or conveyed.

Stormwater means any surface flow, runoff and drainage consisting of water discharged across the land surface, or through conveyances, to one or more waterways, from any form of natural precipitation.

Stormwater management facility maintenance agreement means an agreement that binds the owner or other designated parties to maintain and inspect stormwater management facilities constructed in accordance with this Chapter, based on specific terms and conditions of the agreement.

Stormwater management plan means a document containing material that describes how existing runoff characteristics will be maintained within a land development project, that describes controls for the management of the rate of stormwater discharge, and that describes any best management practices provided for water quality protection. A stormwater management plan may include a narrative section, a map or site plan, pertinent calculations and specifications included with the plan.

Stormwater Pollution Prevention Plan or SWPPP means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Stream buffer means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

Subdivision means the division, including resubdivision, of any lot, tract or parcel of land into two (2) or more lots, tracts or parcels, for the purpose, whether immediate or future, of sale or building development.

Total maximum daily load or TMDL means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that load among the various sources of that pollutant in accordance with the requirements of the federal Clean Water Act. TMDLs include the sum of the individual

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wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Virginia Stormwater BMP Clearinghouse website means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Act means Article 1.1 (§10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

Virginia Stormwater Management Program or VSMP means a program approved by the Board after September 13, 2011 that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities. A VSMP shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, and evaluation consistent with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Program Authority or VSMP Authority means an authority approved by the Virginia State Water Control Board after September 13, 2011 to operate a Virginia Stormwater Management Program.

Virginia Stormwater Management Program (VSMP) authority permit means an approval issued by the Administrator to initiate a land disturbing activity pursuant to the requirements of Article III of this Chapter, and which may only be issued after evidence of general permit coverage has been provided by the DEQ.

Watershed means a defined land area drained by a river, stream or drainage ways, or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

Wetlands, non-tidal means wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act.

(Ord. No. 2011-21, 10-11-11)

SECTION 9-6. DESIGNATION OF PROGRAM AUTHORITY; POWERS AND DUTIES.

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- (a) The City Council hereby designates the ~~department~~ Department of Public Services and Engineering as the program authority for the purposes of administering Articles II, III, and IV of this Chapter.
- (b) The program authority shall administer and enforce the provisions of this Chapter, acting by and through authorized City officials and employees.
- (c) The program authority shall establish reasonable regulations and interpretive guidelines for the administration of this Chapter. Such regulations and guidelines shall be consistent with this Chapter and all applicable Federal and Commonwealth of Virginia statutes and regulations (including, without limitation, the provisions of ~~Va. Code~~ §10.1-570 and §10.1-603.7 of the Code of Virginia); and ~~they~~ shall be subject to the approval of City Council).
- (d) ~~Within one year of the date of adoption of this Chapter t~~The program authority shall assure-ensure that the erosion and sediment control program set forth in Article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. The program authority shall also ensure that the stormwater management program set forth in Article III is administered by a certified program administrator, certified plan reviewer, and a certified project inspector not later than June 30, 2014. Such positions may be filled by the same person.
- (e) The program authority shall take appropriate enforcement actions to achieve compliance with this Chapter, and shall maintain a record of enforcement actions for all active land disturbing activities and land developments.
- (f) The program authority is authorized to cooperate with any federal or state agency in connection with plans for erosion and sediment control or stormwater management. The program authority may also recommend to the City ~~manager~~ Manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the City ~~manager~~ Manager on behalf of the City.

SECTION 9-7. SAVING PROVISION.

The adoption of this Chapter shall not abate any pending action, liability, or penalty of any person accruing or about to accrue, nor waive any right of the City under any provision in effect prior to the date of adoption of this Chapter, unless expressly provided for in this Chapter. Any erosion and sediment control plan, runoff control permit and, to the extent they pertain to stormwater management, any final site plan or plat, approved prior to the date of adoption of this Chapter shall remain in full force and effect, and all rights and remedies of the City in enforcing such plans, permits and plats are hereby preserved.

SECTION 9-8. APPEALS FROM DECISIONS UNDER THIS CHAPTER; HEARINGS ON APPEAL.

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- (a) Any person who is aggrieved by any action, inaction or decision of the program authority pursuant to this Chapter shall have the right of review of such action by the City Council. Any such appeal shall be filed in writing with the clerk of the City Council within ~~ten (10)~~thirty (30) days of the date of such action, inaction or decision.
- (b) An appeal received by the City Council pursuant to this section shall be referred to the planning commission for review and findings of fact. The planning commission shall review the appeal at its next regular meeting following the date the notice of appeal is received by the clerk of council, and shall report its findings to City Council. The City Council shall review the appeal within thirty (30) days after the date of the planning commission meeting at a regular or special meeting of the Council.
- (c) The City Council shall consider evidence presented by the owner, the program authority, ~~and any other aggrieved person~~and such other persons as shall be deemed necessary by the Council for a complete review of the matter. The Council shall render its decision in writing and may affirm, reverse or modify the program authority's decision. The Council's decision shall constitute the final decision of the City on the matter(s) which are the subject of the appeal.
- (d) Any person aggrieved by a final decision of the City Council pursuant to this section shall have the right of review of such decision by the Circuit Court of the City. Any such appeal shall be filed in writing with the Circuit Court within thirty (30) days of the Council's final decision.
- (e) For the purposes of this section, "aggrieved person" is limited to the owner, a permittee, owners of adjacent and downstream property and any interested governmental agency or officer thereof.
- (f) Formal hearings conducted pursuant to this Chapter shall comply with all applicable provisions of §62.1-44.15:45 and §62.1-44.26 of the Code of Virginia.

Any person who is aggrieved by any action of the program authority because of its disapproval of a plan submitted pursuant to this Article, or in the interpretation of the provisions of this Article, shall have the right to apply for and receive a review of such action by the City Council, as provided herein:

- (a) An appeal shall be filed in writing with the clerk of the board of supervisors within thirty (30) days of the date notice of the action is given by the program authority or, if an exception to the requirements of this Article as provided in section 17-308 is requested and denied, within thirty (30) days of the date notice of the denial of such exception. Notice shall be deemed to be given on the date that it is mailed or is hand delivered.
- (b) When reviewing the program authority's action, the City Council shall consider evidence and opinion presented by the aggrieved person, the program authority, and such other persons as shall be deemed by the City Council to be necessary for a complete review of the matter. The City Council may affirm, reverse or modify the program authority's

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~~action. The decision of the City Council shall be final, subject only to review by the Circuit Court as provided in Virginia Code § 10.1-603.13.~~

~~(e) For the purposes of this section, the term *person aggrieved* shall be limited to the owner, owners of adjacent or down-stream property, and any interested governmental agency or officer thereof.~~

SECTION 9-9. COMPLIANCE WITH CHAPTER PREREQUISITE TO ISSUANCE OF PERMITS AUTHORIZING LAND-DEVELOPMENT ACTIVITIES PERFORMANCE GUARANTEE; SURETY.

~~A grading, building or other permit for~~ A permit for activities involving land disturbing activities pursuant to Section 9-20 and Section 9-50 of this Chapter may be issued by the program authority only as provided herein:

- ~~(a) The owner shall submit with his application for such permit a proposed erosion and sediment control plan and/or stormwater management plan, as may be required by this Chapter, for review and approval pursuant to this Article, or an approved erosion and sediment control plan and/or stormwater management plan and certification that the plan(s) will be followed. A permit shall not be issued until all such required plans have been approved and the required certification(s) are submitted.~~
- ~~(b)~~ (a) Prior to issuing a any such permit, the permit-issuing department program authority shall require, or in the case of an agreement in lieu of a plan may require, the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the program authority, to ensure that measures could be taken by the City at the applicant's expense, should he ~~she~~ fail, after proper notice, within the time specified to initiate or maintain appropriate corrective action which may be required of him ~~her~~ by the approved plan as a result of his land disturbing activity.
- ~~(b)~~ (b) A bond or other surety shall not exceed the total of the estimated cost to initiate, maintain and repair all erosion and sediment control and/or stormwater management practices, facilities, structures, systems, and control measures identified within on an the approved plan(s), and to comply with all other terms and conditions of the plan(s). In addition:
- (1) The amount of the bond or other surety shall be based on unit prices for new public or private sector construction in the City of Winchester, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25% of the estimated cost to initiate, maintain and repair all structures, systems, and measures identified within an approved plan, and to comply with all other terms and conditions of the plan.
 - (2) The performance bond or other surety shall be provided from a date prior to the

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issuance of any permit until 60 days after the requirements of the approved stormwater management plan have been completed, as determined by the program authority.

(3) If approved by the program authority, the owner may submit the performance bond or other surety as part of, or included in, any performance bond or surety required in connection with a site plan, subdivision plat or other required approval.

(dc) If the program authority is required to take corrective action pursuant to this Article, then the City may collect from the owner the amount by which the reasonable cost of such corrective action exceeds the amount of the surety.

(ed) Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity, ~~or section thereof, in any land development project in accordance with the approved erosion sediment control plan or section thereof,~~ the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or terminated based upon the percentage of stabilization accomplished in the project or section thereof.

(e) Within sixty (60) days of the completion of the requirements of the approved stormwater management plan, as determined by the program authority, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner or terminated. Thereafter, compliance with the requirements of this Article shall be ensured by a maintenance agreement entered into by and between the owner and the program authority in accordance with Section 9-63.

SECTIONS 9-10 – 9-19. RESERVED.

ARTICLE II. EROSION AND SEDIMENT CONTROL

DIVISION 1. IN GENERAL

SECTION 9-20. PERMIT REQUIRED FOR LAND DISTURBING ACTIVITIES.

No person shall engage in any land disturbing activity within the City until he has acquired a permit from the Program Administrator.

SECTION 9-21. DETERMINATION OF LAND DISTURBING ACTIVITY.

The determination of whether an activity is a land disturbing activity for purposes of this

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Article shall be made as provided herein:

- (a) The program authority shall determine whether an activity is a land disturbing activity, including any claim by an owner that the activity is exempt from the requirements of this Article.
- (b) If a land disturbing activity includes activity at a separate location, including but not limited to borrow and disposal areas, the program authority may either:
 - (1) Consider the off-site activity as being part of the land disturbing activity, and require an erosion and sediment control plan to be submitted and approved; or
 - (2) If the off-site activity is already covered by an erosion and sediment control plan approved by the City, require the owner to provide proof of the approval and to certify that the plan will be implemented in accordance with this Article.
- (c) If a property will be developed in phases, the determination of whether an activity constitutes a land disturbing activity shall be determined by considering the development of the property as a whole, regardless of the phasing of the development.
- (d) Land disturbing activity of less than 5,000 square feet on individual lots in a residential development shall not be exempt from this Article if the total land disturbing activity in the residential development is equal to or greater than 5,000 square feet.
- (e) Upon the determination by the program authority that an activity is a land disturbing activity the owner shall immediately comply with the requirements of this Article.

SECTION 9-22. DETERMINATION OF EROSION IMPACT AREA.

The determination of whether an erosion impact area exists on property shall be rendered as provided herein:

- (a) The program authority shall determine whether an erosion impact area exists on a property and the property and the owner thereof are subject to the requirements of this Article. The program authority shall make this determination after an investigation brought either on his own initiative or upon the complaint of any citizen.
- (b) Upon making a determination that an erosion impact area exists, the program authority shall immediately notify the owner of the property, in writing, of its determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the City, or by personal delivery. The written notice shall (i) instruct the owner to submit an erosion and sediment control plan for review and

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approval as provided in this Article, and (ii) state the date by which the plan must be submitted.

- (c) Upon receipt of the notice required by this section, the owner shall immediately submit to the program authority a conservation plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this Article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.
- (d) For good cause shown, the program authority may grant to an owner an extension of time to comply with the requirements of this section and this Article.

SECTIONS 9-23 – 9-29. RESERVED.

DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND DISTURBING ACTIVITIES

SECTION 9-30. APPLICABILITY.

This Article shall apply to any land disturbing activity. Each owner shall comply with the requirements of this Article, as provided herein:

- (1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his property;
- (2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and
- (3) When notified by the program authority that an erosion impact area exists on his land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.

SECTION 9-31. RESPONSIBILITIES OF OWNER OF LAND WHEN WORK TO BE CONDUCTED BY CONTRACTOR.

Whenever a land disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

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SECTION 9-32. CONFORMITY TO COMMONWEALTH OF VIRGINIA HANDBOOK.

Except as modified below, all plans and specifications submitted under this Article shall be in conformance with the standards, specifications and criteria of the Virginia Erosion and Sediment Control Handbook and those regulations promulgated by the Virginia ~~Soil and Water Conservation~~ State Water Control Board, including, without limitation, the criteria, techniques and methods set forth in ~~4VAC50-30-409VAC25-840-40~~, as amended. ~~—T, provided that the following subsections are hereby changed of VAC 50-30-409VAC25-840-40 of the Virginia Erosion and Sediment Control Regulations shall not apply to land disturbing activities regulated pursuant to this article:~~

- (1) The provision found in Subsection 19b. (1) ~~is deleted.~~

SECTION 9-33. REVIEW AND INSPECTION FEE.

A ~~plan review and inspection~~ fee shall be submitted at the time of filing any erosion and sediment control plan or application for a permit pursuant to this article. This fee shall be an amount as set forth ~~within the most recent fee schedule approved by City Council~~ below:

<u>Site Plans:</u>	<u>\$300 + \$50 per disturbed acre</u>
<u>Subdivision Plans:</u>	<u>\$400 + \$50 per disturbed acre</u>
<u>Single Family Residences</u>	
<u>(With An Agreement in Lieu of a Plan):</u>	<u>\$50 per building unit</u>
<u>Land Disturbance not associated with a Site</u>	
<u>Plan, Subdivision Plan or Single Family Home:</u>	<u>\$200.-</u>

SECTION 9-34. EROSION AND SEDIMENT CONTROL PLAN.

Each owner subject to this Article shall submit to the program authority for review and approval an erosion and sediment control plan as provided herein:

- (a) The owner shall submit a completed application on a form provided by the program authority, together with three (3) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.
- (b) The plan shall include specifications for temporary and permanent controls of soil erosion and sedimentation in such detail as the program authority shall deem reasonably adequate, considering the nature and extent of the proposed land disturbing activity, and a statement describing the maintenance responsibilities of the owner to assure that the land disturbing activity will satisfy the purposes and requirements of this Article. As a

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minimum, the plan shall follow the format and conform to the approved standards and specifications for control techniques as set forth in the "Virginia Erosion and Sediment Control Handbook", which by reference is adopted as a part of this Chapter. The plan shall be consistent with the criteria, techniques and methods as set forth in the Minimum Standards (~~9VAC25-840-40~~ ~~§ 4 VAC 50-30-40~~) of the Virginia Erosion and Sediment Control Regulations adopted by the Virginia ~~Soil and Water~~ State Water Control Conservation Board. The plan shall identify the person holding a certificate of competence, as described in Virginia Code § 10.1-561, who shall be in charge of and responsible for carrying out the land disturbing activity.

- (c) The program authority may require additional information as may be necessary for its complete review of the plan.
- (d) In lieu of paragraphs (a)-(c), above, if the land disturbing activity involves land also under the jurisdiction of another local erosion and sediment control program, the owner may, at his option, choose to have a conservation plan approved by the Virginia ~~Department of Conservation and Recreation~~ Department of Environmental Quality- Division of Soil and Water Conservation. The owner shall notify the program authority of such plan approval by such board.
- (e) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:
 - (1) Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and;
 - (2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when Board approved specifications are followed, however, projects included in subdivisions 1 and 2 must comply with Board approved specifications. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the City of Winchester erosion and sediment control program.

- (f) State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.

(Ord. No. 2007-21, 07-10-07)

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SECTION 9-35. REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLAN.

Each erosion and sediment control plan submitted pursuant to this Article shall be reviewed and approved as provided herein:

- (a) The plan shall be reviewed by the program authority to determine its compliance with the requirements of this Article and with applicable Commonwealth of Virginia laws and regulations.
- (b) During its review of the plan, the program authority may correspond with the owner from time to time to review and discuss the plan with the owner, and shall inform the owner in writing of any modifications, terms, or conditions required to be included in the plan in order for it to be approved.
- (c) Except as provided in paragraph (d), below, the program authority shall approve or disapprove a plan in writing within forty-five (45) days from the date a complete application was received. The decision of the program authority shall be based on the plan's compliance with the requirements of this Article and with applicable Commonwealth of Virginia laws and regulations. If the plan is disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. The decision shall be communicated to the applicant by mail or delivery.
- (d) If the program authority fails to act on the plan within 45 days from the date the complete application was received by it, then the plan shall be deemed approved.
- (e) If the owner is required to obtain approval of a site plan or subdivision plat, the program authority shall not approve an erosion and sediment control plan unless and until the site plan or plat is approved as provided by law. For purposes of this paragraph, a site plan or plat may be deemed approved by the program authority if its approval is conditioned upon the approval of an erosion and sediment control plan pursuant to this Article, and the program authority determined that review and approval of the erosion and sediment control plan will not affect approval of the site plan or plat. The program authority may approve an erosion and sediment control plan prior to approval of a required site plan or plat in the following circumstances:
 - (1) To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this Chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
 - (2) To clear and grub stumps and other activity directly related to the

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- selective cutting of trees, as may be permitted by law;
- (3) To fill earth with spoils obtained from grading, excavation or other similar, lawful activities;
 - (4) To construct temporary access roads, provided that the area disturbed shall be returned to substantially its previous condition, with no significant change in surface contours, within thirty (30) days of the completion of such temporary use, or within thirteen (13) months of the commencement of any land disturbing activity on the land which is related to such temporary use, whichever period shall be shorter.
 - (5) To establish burrow, fill, or waste areas, if permitted by the City's zoning ordinance.

SECTION 9-36. AGREEMENT IN LIEU OF A PLAN.

- (a) If land disturbing activity is for the purpose of establishing or modifying a single family detached dwelling, the program authority may allow an agreement in lieu of a plan for the construction of such dwelling, provided:
 - (1) The single family dwelling is located on an individual lot which is not part of a subdivision; or
 - (2) The single family dwelling is located within a residential development or subdivision, and the individual lots are being developed by different property owners; or
 - (3) The single family dwelling is located within a subdivision that no longer has an active erosion and sediment control plan; and
 - (4) The agreement in lieu of a plan identifies the person holding a certificate of competence, as described in Virginia Code 10.1-561, who shall be in charge of and responsible for carrying out the land disturbing activity.
- (b) In determining whether to allow an agreement in lieu of a plan, the program authority shall include as part of its consideration the potential threat to water quality and to adjacent land resulting from the land disturbing activity. When an agreement in lieu of a plan is authorized and approved by the program authority, the program authority and the owner shall have all of the rights, responsibilities and remedies set forth in this Article as though such agreement in lieu of a plan was an erosion and sediment control plan.
- (c) At the discretion of the program authority a bond may be required in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to cover potential threats to water quality. (Ord. No. 2011-21, 10-11-11)

SECTION 9-37. AMENDMENT OF APPROVED PLAN.

The program authority may change an approved erosion and sediment control plan,

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and/or require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this Article; or
- (2) The owner finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out and proposed amendments to the plan, consistent with the requirements of this Article are agreed to by the program authority and the owner; or
- (3) The land disturbing activity was not commenced during the one hundred eighty (180) day period following plan approval, or ceased for more than one hundred eighty (180) days, and the existing plan has been evaluated to determine whether it still satisfies the requirements of this Article and Commonwealth of Virginia erosion and sediment control criteria and to verify that all design factors are still valid, and it has been determined that the plan is inadequate. In such a case, the land disturbing activity shall not be resumed until a modified plan is submitted and approved as provided in this Article.

SECTION 9-38. DUTY TO COMPLY, MAINTAIN AND REPAIR.

Upon approval by the program authority of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land disturbing activities, or activities to correct an erosion impact area;
 - (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;
 - (3) Comply with all requirements of this Article; and
 - (4) Have a person holding a certificate of competence, as described in Virginia Code §10.1-561, in charge of and responsible for carrying out the land disturbing activity. This person shall be designated prior to commencement of land disturbing activity.
- (Ord. No. 2007-21, 07-10-07)

SECTION 9-39. INSPECTION AND MONITORING.

(a) As a condition of approval of an erosion and sediment control plan, the program authority may require the owner to monitor and report to the program authority as provided herein:

- (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment.
- (2) The condition requiring monitoring and reporting shall state: (i) the

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method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.

- (b) The program authority shall inspect any land disturbing activity or erosion impact area as provided herein:
- (1) The program authority shall conduct periodic inspections of land disturbing activities and erosion impact areas to determine compliance with the approved erosion and sediment control plan, and to determine whether such approved plan and permit as implemented are adequate to satisfy the requirements of this Article.
 - (2) Except as provided in paragraph (3), below, inspections shall be conducted (i) during or immediately following initial installation of erosion and sediment controls; (ii) at times indicated by Commonwealth of Virginia conservation standards; and (iii) upon completion of the land development project prior to the release of any surety. The inability of the program authority to conduct inspections within the time periods set forth within this paragraph shall not be deemed to be a failure of the program authority to perform a mandatory duty or a ministerial function, and no liability to the City, the program authority, or to any official or employee thereof shall arise therefrom.
 - (3) Notwithstanding paragraph (2), above, the program authority is authorized to establish an alternative inspection program which ensures compliance with an approved erosion and sediment control plan. Such alternative inspection program shall be: (i) approved by the Virginia ~~Soil and Water Conservation~~ State Water Control Board prior to implementation; (ii) established in writing; (iii) based on a system of priorities which, at a minimum, address the amount of disturbed project area, site conditions, and stage of construction; (iv) documented by inspection records; and (v) maintained and available for public review in the department of Public Services and Engineering.
 - (4) The program authority shall have the right to enter upon property subject to an erosion and sediment control plan for the purposes of conducting an inspection as provided in this section or an investigation pertaining to an erosion or sedimentation complaint. The owner shall be given notice of the inspection. Such notice may be either verbal or in writing.

SECTION 9-40. DETERMINATION OF NONCOMPLIANCE WITH PLAN.

Upon a determination by the program authority that an owner has failed to comply with an approved erosion and sediment control plan, the following procedures shall apply:

- (a) The program authority shall immediately serve upon the owner a written notice to comply. The notice shall (i) instruct the owner to take corrective measures immediately, when immediate action is necessary to prevent erosion or sedimentation

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problems; (ii) state specifically the measures needed to come into compliance with the approved plan; and (iii) state a reasonable time for compliance. The notice shall be served by certified mail to the address provided by the owner in the application for approval of the plan, by personal delivery to the owner, or by personal delivery to an agent or employee at the site of the permitted activities who is supervising such activities.

- (b) If the owner fails to take corrective measures stated in the notice to comply within the time specified in the notice, the permit-issuing department may revoke any permit it has issued related to the land disturbing activity and the owner shall be deemed to be in violation of this Article. Furthermore, he shall be deemed to be in violation of this Chapter and shall be subject to the penalties provided by the Chapter.
- (c) If the owner fails, within the time specified in the notice, to take the corrective measures for compliance stated in the notice, the program authority, upon finding that such action is reasonably necessary to protect the public health, safety and welfare, may take all corrective measures it deems necessary in order to protect the public health, safety and welfare, and shall be entitled to recover the expenses of such action from the owner.
- (d) Upon receipt of a sworn complaint of a violation of this Article or of an approved erosion and sediment control plan, from the program authority, the Program Administrator may, in conjunction with or subsequent to a notice of violation, issue an order requiring that all or part of the land disturbing activity permitted on the site be stopped until the specified corrective measures have been taken or, if land disturbing activity has commenced without an approved plan, requiring that all of the land disturbing activity be stopped until an approved plan and any required permits have been obtained.
 - (1) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands, sediment deposition in waters, or water quality problems within the watersheds of the Commonwealth, or where the land disturbing activity has commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.
 - (2) A stop-work order shall be served in the same manner as a notice to comply, and it shall remain in effect for seven (7) days from the date of service, pending application by the enforcing authority or alleged violator for appropriate relief to the Circuit Court.
 - (3) If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of a stop-work order, the City Engineer may issue an order to the owner requiring that all construction or other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by certified mail to the address

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specified in the permit application.

- (4) The owner may appeal the issuance of any stop-work order to the Circuit Court.
- (5) Final decision of the Plan Approving Authority shall be subject to review by the Circuit Court of the City provided an appeal is filed within thirty (30) days from the date of the final written decision adversely affecting the rights, duties or privileges of the person engaging or proposing to engage in land disturbing activity.
- (6) Any person violating or failing, neglecting or refusing to obey an order issued by the City Engineer may be compelled in a proceeding instituted in the Circuit Court to obey the order and to comply therewith, by injunction, mandamus or other appropriate remedy.
- (7) Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.
- (8) Nothing in this section shall prevent the Program Administrator from taking any other action authorized by this Chapter or by any other provision of law.

(Ord. No. 2011-21, 10-11-11)

SECTION 9-41. CERTIFICATION OF PROGRAM PERSONNEL.

As required by Commonwealth of Virginia law, the City's erosion and sediment control program shall meet, within one (1) year following the adoption of this section, the following minimum standards for effectiveness:

- (1) An erosion and sedimentation control plan shall not be approved until it is reviewed by a certified plan reviewer;
- (2) Inspections of land disturbing activity shall be conducted by a certified inspector; and
- (3) The City's erosion control program shall contain a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.

(Ord. No. 2011-21, 10-11-11)

SECTION 9-42. PENALTIES, INJUNCTIONS AND OTHER LEGAL ACTIONS.

- (a) Any person violating the provisions of this Article shall, upon conviction, be guilty of a Class 1 misdemeanor.
- (b) The following may apply to the Circuit Court for injunctive relief to enjoin a

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- (1) The City.
 - (2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the provisions of this Article, and the program authority, that a violation of this Article has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated this Article nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.
- (c) In addition to any criminal penalties provided for a violation of this Chapter, any person who violates any provision of this Chapter may be liable to the City in a civil action for damages.
- (d) Each violation of any regulation or order of the Board, any provision of this Chapter, or any provision of Title 10.1, Chapter 5, Article 4 of the Code of Virginia shall be subject to a civil penalty of one hundred dollars (\$100.00). Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00), except that a series of violations arising from the commencement of land disturbing activity without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. An appropriate official or employee of the program authority, or a certified inspector for the City, may issue a summons for collection of the civil penalty and the action may be prosecuted by the City.
- (e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such violation or failure may be brought by the City against such person.
- (f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Program Administrator issued under this Chapter any condition of a permit issued under this Chapter or any provision of this Chapter, the Program Administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed \$2,000.00. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.
- (g) Any civil penalties assessed by a court pursuant to this section shall be paid

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into the City treasury, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the Commonwealth of Virginia treasury.

(Ord. No. 2011-21, 10-11-11)

SECTIONS 9-43 -9-49. RESERVED.

ARTICLE III. STORMWATER MANAGEMENT AND WATER QUALITY

DIVISION 1. IN GENERAL

SECTION 9-50. STORMWATER MANAGEMENT PLAN; APPLICABILITY VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) AUTHORITY PERMIT; APPLICABILITY; EXEMPT ACTIVITIES.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the program authority in accordance with the provisions of this Article. In addition, no grading, building or other permit shall be issued, nor any site plan approved, for any property unless a VSMP authority permit has been issued by the program authority in accordance with the provisions of this Article. Each owner shall comply with the requirements of this Article prior to commencing any land development or land-disturbing activity, or allowing any land development or land-disturbing activity to occur, on his property, for residential, commercial, industrial or institutional use, and at all times thereafter.
- (b) No person may commence ~~development of any land~~ any land-disturbing activity until he has submitted ~~a stormwater management/best management plan (BMP) all plans and documents required by this section~~ to the City program authority and has obtained the City's program authority's approval of that all such plans and documents. No building permit, site plan approval or other permit for activities involving land development shall be issued by any City department or official, unless a stormwater management/BMP plan has been approved by the program authority consistent with the provisions of this division. No VSMP authority permit shall be issued unless:
- (1) A permit application on a form provided by the program authority has been submitted to the program authority, and the permit application has been reviewed and approved in accordance with the provisions of this Article. The applicant shall submit with his application for such permit certification by the owner that all land clearing, construction, land development and drainage will be performed according to the approved stormwater management plan and permit. No VSMP authority permit shall be issued unless and until the permit application and

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- supporting documentation demonstrate, to the satisfaction of the program authority, that all land clearing, construction, disturbance, land development and drainage will be performed according to the approved permit;
- (2) An erosion and sediment control plan has been submitted and approved in accordance with the provisions of Article II of this Chapter, and a permit has been issued by the program authority for the land-disturbing activity in accordance with Section 9-20;
 - (3) A stormwater management plan has been submitted to the program authority and reviewed and approved in accordance with all applicable requirements of this Article;
 - (4) Evidence has been submitted to the program authority demonstrating that the applicant has applied for and obtained coverage under a general permit, including a completed general permit registration statement;
 - (5) A performance guarantee or surety has been submitted to the program authority in accordance with Section 9-9;
 - (6) All fees required by this Chapter have been paid to the City; and
 - (7) If an operator intends to meet the water quality and/or quantity requirements set forth in Division 2 of this Article through the use of off-site compliance options as authorized under §10.1-603.8:1 of the Code of Virginia and 9VAC25-870-69 of the Virginia Administrative Code, then a letter of availability from the off-site provider must be provided to the program authority. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by §10.1-603.8:1 of the Code of Virginia.
- (c) Notwithstanding any other provisions of this Chapter, the following activities shall not be considered a land-disturbing activity for the purposes of administering the requirements of this Article and shall be exempt from the requirements of this Article:
- (1) Permitted surface or deep mining operation and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
 - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in the regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of §10.1-1163 of the Code of Virginia;
 - (3) Single-family residences separately built and disturbing less than one (1) acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
 - (4) Land disturbing activities that disturb less than one (1) acre of land area;
 - (5) Discharges to a sanitary sewer or a combined sewer system;
 - (6) Activities under a state or federal reclamation program to return an abandoned

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property to an agricultural or open land use;

- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
- (8) Land-disturbing activities conducted in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with all applicable requirements of this Article is required within 30 days of commencing the land-disturbing activity.

(e) Notwithstanding any other provisions of this Article, the following activities are exempt from the requirements of this section:

- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Tilling, planting or harvesting or agricultural, horticultural, or forest crops;
- (3) Construction, extension or replacement of a building or buildings on a site of 5,000 square feet or less, not including cases where development is to be done in phases and the total land disturbance for all phases is greater than 5,000 square feet;
- (4) Land development or a portion of a land development on land which is designated as lying within a flood plain, except in cases where the flood plain has been modified by permitted fill or other activities in compliance with the zoning ordinance;
- (5) Land development or a portion of a land development where the land is adjacent to a flood plain, and the owner has demonstrated to the reasonable satisfaction of the program authority that off site improvements or other provisions for the disposition of surface water runoff would equally or better serve the public interest and safety, and that such method of disposition would not adversely affect downstream properties or stream channels; and
- (6) Any land development related to a final site plan or plat approved by the appropriate governing authority prior to the effective date of this Chapter.

(b) Notwithstanding any other provisions of this Article, the following activities are exempt from the requirements of this section:

- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Tilling, planting or harvesting or agricultural, horticultural, or forest crops; and
- (3) Single family dwelling units separately built and not part of a division of land, including additions or modifications to existing single family detached

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~~dwelling units, except if the land disturbance exceeds 5,000 square feet.~~

SECTION 9-51. STORMWATER MANAGEMENT ~~/BMP~~ PLAN; REQUIREMENTS CONTENTS.

Each person subject to this Article shall submit to the program authority for review and approval a stormwater management ~~/BMP~~ plan as provided herein:

(a) Together with the required stormwater management ~~/BMP~~ plan, the owner of property proposed for development or redevelopment shall submit:

- (1) An application on a form provided by the program authority;
- (2) Any required application fee, as set forth within the most recent fee schedule approved by City Council.

~~(3) A certification stating that all land clearing, construction, land development and drainage will be done according to the approved plan;~~

(4) Specifications for stormwater management and best management practices in order to satisfy the requirements of Division 2 of this Article. The program authority may require the owner to submit maps, calculations, detail drawings, reports, a listing of all major permit decisions and any other information as are determined by the program authority to be necessary to allow a complete review of the plan.

(b) For purposes of this section, major permit decisions include, but are not limited to, decisions pertaining to zoning map amendments, special use permits, grading permits, building and erosion and sediment control plans and any permit related to the land development required under Commonwealth of Virginia or ~~Federal~~ federal law.

(c) Each stormwater management plan submitted for approval shall contain, at a minimum, the following information:

(1) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;

(2) A narrative that includes a description of current site conditions and final site conditions;

(3) A map or maps of the site that depicts the topography of the site and includes:

(i) All contributing drainage areas;

(ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

(iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

(iv) Current land use including existing structures, roads, and locations of known utilities and easements;

(v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

(vi) The limits of clearing and grading, and the proposed drainage patterns on the site;

(vii) Proposed buildings, roads, parking areas, utilities, and stormwater

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- management facilities; and
- (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;
- (5) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
- (6) Information on the proposed stormwater management facilities, including:
- (i) The type of facilities;
 - (ii) Location, including geographic coordinates;
 - (iii) Acres treated; and
 - (iv) The surface waters or karst features, if present, into which the facility will discharge;
- (7) Hydrologic and hydraulic computations, including runoff characteristics; and
- (8) Documentation and calculations verifying compliance with the water quality and quantity technical requirements of Division 2 of this Article.
- (d) The stormwater management plan required under this Article shall apply the stormwater management technical requirements set forth in Division 2 of this Article to the entire land disturbing activity, and shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- (e) If an operator intends to meet the water quality and/or quantity requirements set forth in Division 2 of this Article through the use of off-site compliance options as authorized under §10.1-603.8:1 of the Code of Virginia and 9VAC25-870-69 of the Virginia Administrative Code, then a letter of availability from the off-site provider must be provided to the program authority. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by §10.1-603.8:1 of the Code of Virginia.
- (f) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (g) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

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MANAGEMENT/BMP PLAN RESERVED.

Each stormwater management/BMP plan submitted pursuant to this Article shall be reviewed and approved as provided herein:

- (a) ~~The plan shall be reviewed by the program authority to determine its compliance with the requirements of this Article and with applicable Federal and Commonwealth of Virginia laws and regulations. Where a proposed stormwater management plan includes facilities or BMPs for which design requirements and specifications, and/or maintenance requirements, are specified within the Virginia Stormwater Management (SWM) Handbook and/or the Virginia Stormwater Management Regulations set forth within 4 VAC 3-20 et seq., the program authority shall utilize those design requirements, specifications and/or maintenance requirements in reviewing and making decisions as to the acceptability of such facilities or BMPs under this Article.~~(b) ~~The plan shall be reviewed by the program authority to determine whether it complies with the requirements of section 9-51 and all other requirements of this Article.~~
- (c) ~~During its review of the plan, the program authority may meet with the owner from time to time to review and discuss the plan with the owner, and to request any additional data as may be reasonably necessary for a complete review of the plan.~~
- (d) ~~The program authority shall approve or disapprove a plan within forty five (45) days from the date a complete application was accepted for review. The decision of the program authority shall be based on the plan's compliance with this Article. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.~~
- (e) ~~Each stormwater management/BMP plan approved by the program authority shall be subject to the following:~~
 - (1) ~~The owner shall comply with all applicable requirements of the approved plan, this Article, the Virginia Stormwater Management Act (Virginia Code §§ 10.1-603.2 et seq.), and the Commonwealth of Virginia stormwater management regulations set forth in 4 VAC 3-20-10 et seq.;~~
 - (2) ~~The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;~~
 - (3) ~~Land development shall be conducted only within the area specified in the approved plan;~~
 - (4) ~~The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by provision (e)(2);~~
 - (5) ~~The program authority may require, in conjunction with its approval of a plan, that the owner first enter into a stormwater management/BMP facilities maintenance agreement as provided in section 9-63;~~
 - (6) ~~The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections as provided in section 9-67; and~~

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- ~~(7) The program authority may require, as a condition of plan approval, that the owner enter into a right of entry agreement or grant an easement for purposes of inspection and maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.~~
- ~~(f) Nothing in this section shall require approval of a plan or part thereof that is determined by the program authority to pose a danger to the public health, safety, or general welfare or to deviate from sound engineering practices.~~

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.8.~~

SECTION 9-53. MONITORING AND REPORTING.

As a condition of approval of a stormwater management/BMP plan, the program authority may require the owner to monitor and report to the program authority as provided herein:

- (a) Any monitoring conducted shall be for the purpose of ensuring compliance with the stormwater management/BMP plan and to determine whether the plan provides effective stormwater management.
- (b) The condition(s) requiring monitoring and reporting shall state the method and frequency of such monitoring.
- (c) The condition(s) requiring monitoring and reporting shall state the format of the report and the frequency for submitting reports.
- ~~(d) Pursuant to § 10.1-603.12:2 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance, provided that the disclosure requirements of 10.1-603.12:2 of the Code of Virginia shall be met by the program authority.~~
- ~~(f) As a condition of approval of a stormwater management plan, the program authority may require the owner to monitor and report to the program authority as follows:~~
- ~~Any monitoring conducted by the owner shall be for the purpose of ensuring compliance with the approved stormwater management plan and to determine whether the plan provides effective stormwater management.~~
- ~~The condition(s) requiring monitoring and reporting shall state the method and frequency of such monitoring.~~
- ~~The condition(s) requiring monitoring and reporting shall state the format of the report and the frequency for submitting reports.~~

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~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.8.~~

SECTION 9-54. ISSUANCE OF PERMIT; SURETY RESERVED.

~~A grading, building or other permit for activities involving land development may be issued by a permit issuing department only as provided herein:~~

- ~~(a) The owner shall submit with his application for such permit an approved stormwater management/BMP plan and certification by the owner that all land clearing, construction, land development and drainage will be done according to the approved plan. A permit shall not be issued until such approved plan and certification are submitted.~~
- ~~(b) Prior to the issuance of any such permit, the owner shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the City attorney, to ensure that measures could be taken by the City or the program authority at the owner's expense should he fail, after proper notice as provided in section 9-68, to take timely corrective action specified in the notice. The performance bond or other surety shall be provided from a date prior to the issuance of any permit by the permit issuing department until sixty (60) days after the requirements of the approved stormwater management/BMP plan have been completed, as determined by the program authority.~~
- ~~(c) A performance bond or other surety pursuant to paragraph (b) shall not exceed the total of the estimated cost to initiate, maintain and repair all stormwater management facilities, practices and other appropriate actions which may be required of the owner pursuant to the approved stormwater management/BMP plan as a result of the land development. The amount of the bond or other surety shall be based on unit price for new public or private sector construction in the City of Winchester, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty five (25) percent of the estimated cost to initiate, maintain and repair all stormwater management facilities, practices and other appropriate actions which may be required of the owner pursuant to the approved stormwater management/BMP plan.~~
- ~~(d) If the program authority is required to take corrective action pursuant to section 9-68 upon the failure of the owner to do so, the City may collect from the owner for the difference if the amount of the reasonable cost of the corrective action exceeds the amount of the surety.~~
- ~~(e) Within sixty (60) days of the completion of the requirements of the approved stormwater management/BMP plan, as determined by the program authority, the bond or other surety, or any unexpended or unobligated portion thereof shall be refunded to the owner or terminated. Thereafter, compliance with the requirements of this Article shall be assured by a maintenance agreement entered into by and between the owner and the program authority, which agreement shall be in a form approved by the City.~~

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~~Attorney:~~

~~(Ord. No. 2011-21, 10-11-11)~~

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.8.~~

SECTION 9-55. FEES.

Each owner seeking approval of a stormwater management ~~BMP~~ plan shall pay a fee upon submittal of such plan and application for a VSMP authority permit, and shall pay a fee for ~~each inspection, in amounts as set forth in the most recent fee schedule approved by City Council~~ the modification or transfer of registrations statements from the general permit issued by the State Board, and for maintaining coverage under an approved VSMP authority permit, as provided below:

- (a) Fees for issuance of a VSMP authority permit and associated general permit coverage shall be imposed in accordance with Table 1. Each Applicant shall be subject to a fee (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites as provided in Table 1.

Table 1: Fees for permit issuance

<u>Fee type</u>	<u>Total fee to be paid by Applicant</u>	<u>Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*)</u>
<u>General / Stormwater Management - Small Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)</u>	<u>\$2,700</u>	<u>\$756</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$3,400</u>	<u>\$952</u>

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<u>Fee type</u>	<u>Total fee to be paid by Applicant</u>	<u>Department portion of "total fee to be paid by Applicant" (based on 28% of total fee paid*)</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing [Sites with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]</u>	<u>\$4,500</u>	<u>\$1,260</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$6,100</u>	<u>\$1,708</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$9,600</u>	<u>\$2,688</u>

* If the project is completely administered by the Department of Environmental Quality, such as may be the case for a state or federal project or projects covered by individual permits, the entire fee shall be paid to the Department of Environmental Quality.

~~Commonwealth of Virginia law reference~~ – Va. Code § 10.1-603.10.

(b) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the

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General Permit for Discharges of Stormwater from Construction Activities

<u>Type of Permit</u>	<u>Fee Amount</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)</u>	<u>\$200</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$250</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$300</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$450</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$700</u>

(c) The following annual permit maintenance fee shall be imposed on all VSMP authority permits in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. Maintenance fees shall be paid annually to the City by the anniversary date of permit coverage. Such fees shall apply until the permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee.

Table 3: Permit Maintenance Fees

<u>Type of Permit</u>	<u>Fee Amount</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)</u>	<u>\$400</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$500</u>

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<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$650</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$900</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$1,400</u>

(d) The fees set forth in Subsections (a) through (c) above, shall apply to:

- (1) All persons seeking a VSMP authority permit and associated coverage under the general permit.
- (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
- (3) Persons whose coverage under the general permit has been revoked shall apply to the Department of Environmental Quality for an Individual Permit for Discharges of Stormwater From Construction Activities.
- (4) Permit and permit coverage maintenance fees outlined under Section 9-55 (c) may apply to each general permit holder.

(e) No general permit application fees will be assessed to:

- (1) Permittees who request minor modifications to general permits as defined in Section 9-5 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.
- (2) Permittees whose general permits are modified or amended at the initiative of the Department of Environmental Quality, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

(f) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The City shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

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DIVISION 2. PLAN REQUIREMENTS: WATER QUANTITY AND WATER QUALITY PROTECTION REQUIREMENTS FOR WATER QUANTITY AND WATER QUALITY PROTECTION

SECTION 9-56. STORMWATER MANAGEMENT FACILITIES AND CHANNELS: TECHNICAL REQUIREMENTS FOR THE DESIGN OF STORMWATER MANAGEMENT FACILITIES; GRANDFATHERED ACTIVITIES; EXCEPTIONS.

- (a) The City of Winchester hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Virginia Stormwater Management Program (VSMP) Regulations, as amended, expressly to include 9VAC25-870-62 [applicability]; 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development projects]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Article, except as expressly set forth in subsections (e) through (l) of this section. The City hereby adopts the technical criteria for grandfathered land-disturbing activities as set forth in Part II C of the Regulations, expressly to include 9VAC25-870-93 [definitions]; 9VAC25-870-94 [applicability]; 9VAC25-870-95 [general]; 9VAC25-870-96 [water quality]; 9VAC25-870-97 [stream channel erosion]; 9VAC25-870-98 [flooding]; and 9VAC25-870-99 [regional (watershed-wide) stormwater management plans].
- (b) Stormwater management facilities and ~~modifications to~~ channels, and modifications thereto, required as part of a stormwater management ~~BMP~~ plan shall be designed, installed and constructed as provided herein:
- (1) Stormwater management facilities, best management practices, and modifications to channels shall be designed and constructed in compliance with applicable local, ~~Commonwealth of Virginia~~state and ~~Federal~~federal laws, regulations, and standards, including, but not limited to the Federal Clean Water Act; the Virginia Stormwater Management Act (VA Code §§10.1-603.2 et seq.) and the Virginia sStormwater management Management Program (VSMP) rRegulations promulgated by the state Board of Conservation and Recreationstate board, set forth within 4 VAC 3-20-109VAC25-870-10 et seq.; the National Flood Insurance Program; the Virginia BMP Clearinghouse website and the City of Winchester Stormwater Management DesignPublic Services Standards Manual.
 - (2) Stormwater management facilities and best management practices shall be designed and sited to capture, to the maximum extent practicable, the runoff from the entire land development project area and, in particular, areas of impervious cover within the development project area. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.

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- (3) Hydrologic parameters shall reflect the ultimate buildout in the land development project area and shall be used in all engineering calculations.
- (4) Post-development runoff rate of flow shall be maintained, as nearly as practicable, as the pre-development runoff characteristics, ~~subject further to the requirements of §9-52.~~
- (5) The number, type, and siting of stormwater management facilities shall be designed so as to preserve natural channel characteristics and natural groundwater recharge on a site to the extent practical.

(c) Each stormwater management/BMP plan shall require that land and receiving waterways which are downstream from the land development be protected from stormwater runoff damage, as provided herein:

- (1) To protect downstream properties and receiving waterways from flooding, the ten (10) year post-development peak rate of runoff from the land development shall not exceed the ten (10) year pre-development peak rate of runoff.
- (2) To protect downstream properties and receiving waterways from channel erosion, the two (2) year post-development peak rate and velocity of runoff from the land development shall not exceed the two (2) year pre-development peak rate and velocity of runoff.
- (3) If the land development is in a watershed for which a hydrologic and/or hydraulic study has been conducted or a stormwater model developed, the program authority may modify the requirements of paragraphs (1) and (2) so that runoff from the land development is controlled in accordance with the findings in the study or model, or to prevent adverse watershed stormflow timing, channel degradation, and/or localized flooding problems.
- (4) In addition to the requirements of paragraphs (1) and (2), the program authority may require that the plan include additional measures to address damaging conditions to downstream properties and receiving waterways caused by the land development.

(d) Pre-development and post-development runoff rates determined for purposes of paragraph (c) shall be verified by calculations that are consistent with accepted engineering practices, as determined by the program authority.

(e) Until June 30, 2019, any land-disturbing activity shall be considered grandfathered by the Administrator and shall be subject to the technical criteria of Part II C of the Regulations provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plan, preliminary or final site plan, or any document determined by the Administrator to be equivalent thereto (i) was approved by the City prior to July 1, 2012, (ii) provided a layout as defined in Section 9-5 of this Chapter, (iii) will comply with the Part II C technical criteria of the Regulations, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorous leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014; and

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- (3) Land disturbance did not commence prior to July 1, 2014.
- (f) Locality, state, and federal projects shall be considered grandfathered by the City and shall be subject to the technical requirements of Part II C of the Regulations provided:
- (1) There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or the Department of Conservation and Recreation has approved a stormwater management plan prior to July 1, 2012;
 - (2) A state permit has not been issued prior to July 1, 2014; and
 - (3) Land disturbance did not commence prior to July 1, 2014.
- (g) Land-disturbing activities grandfathered under subsection (f) of this section shall remain subject to the Part II C technical criteria of the Regulations for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Board.
- (h) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be considered grandfathered and subject to the technical requirements of Part II C of the Regulations.
- (i) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.
- (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse website.
 - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 of the Regulations have been considered and found not available.
- (j) ~~Other than requests for permission to develop within a required stream buffer, which requests shall be handled pursuant to §9-74, a~~ request for an exception ~~to the requirements of this Article pursuant to subsection (i) of this section~~ shall be made and reviewed as follows:
- (a1) A written request for an exception shall be submitted to the program authority, which shall immediately forward a copy of the request to the City attorney's office for its recommendation. The request shall address the factors listed in paragraph

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(eg), ~~below~~above.

~~(b2)~~ After receiving a recommendation from the City attorney's office and considering a recommendation from the program authority~~the request~~, the City Council Administrator shall grant or deny a request for an exception within 60 days from the date of the program authority's receipt of the request.

~~(e)~~ A request for exception may be granted by the City Council, upon finding that:

- ~~(1)~~ A stormwater management plan has been submitted to the program authority for review in accordance with this Article, and the plan demonstrates that reasonable alternatives to the exception have been considered and determined to not be feasible through attempts to meet the provisions of this Article, the use of non-structural measures, the use of a mitigation plan, or by other means;
- ~~(2)~~ The exception requested is the minimum necessary to afford relief;
- ~~(3)~~ Reasonable and appropriate conditions can be imposed to ensure that the purposes of this Article are satisfied; and
- ~~(4)~~ The sole basis for the request is not economic hardship, which shall be deemed an insufficient reason to grant an exception.

~~(k)~~ Nothing in this section shall preclude an operator from constructing to a more stringent standard at their discretion.

~~(l)~~ The program authority may develop comprehensive stormwater management plans to be approved by DEQ that meet the water quality objectives, quantity objectives, or both of this Chapter in accordance with 9VAC25-870-92 of the Regulations.

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.3.~~

SECTION 9-57. NON-STRUCTURAL MEASURESSTORMWATER POLLUTION PREVENTION PLAN (SWPPP); REQUIREMENTS.

- ~~(a)~~ The Stormwater Pollution Prevention Plan (SWPPP) shall include the content and address all of the requirements specified by Section 9VAC25-870-54 of the Virginia Administrative Code and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit.
- ~~(b)~~ The SWPPP shall be amended by the owner whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- ~~(c)~~ The SWPPP must be maintained by the owner at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Owners shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

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~~Non-structural measures may be used in conjunction with or in place of structural measures in order to satisfy the requirements of this Article, as provided herein:~~

- ~~(1) The program authority may allow non-structural measures to satisfy, partially or in whole, the requirements of this Article, if such measures are identified in accepted technical literature, are acceptable to the program authority based on its exercise of sound professional judgment, and the program authority finds~~

~~that the measures achieve equivalent benefit for water quantity and/or quality protection as would otherwise be provided by structural measures.~~

- ~~(2) Non-structural measures include, but are not limited to, minimization of impervious surfaces, stream buffer reforestation, providing additional stream buffer areas, wetland restoration, waste reuse and recycling, and development design that reduces the rate and volume of runoff.~~

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.3.~~

SECTION 9-58. CONTROL OF PEAK RATE AND VELOCITY OF RUNOFF POLLUTION PREVENTION PLAN FOR MINIMIZING DISCHARGES DURING CONSTRUCTION; REQUIREMENTS.

- (a) A Pollution Prevention Plan, as required by 9VAC25-870-56 of the Virginia Stormwater Management Program (VSMP) Regulations, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants during construction. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.

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(c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

- ~~(a) Each stormwater management/BMP plan shall require that land and receiving waterways which are downstream from the land development be protected from stormwater runoff damage, as provided herein: (1) To protect downstream properties and receiving waterways from flooding, the ten (10) year post-development peak rate of runoff from the land development shall not exceed the ten (10) year pre-development peak rate of runoff~~
- ~~(2) To protect downstream properties and receiving waterways from channel erosion, the two (2) year post-development peak rate and velocity of runoff from the land development shall not exceed (3) If the land development is in a watershed for which a hydrologic and/or hydraulic study has been conducted or a stormwater model developed, the program authority may modify the requirements of paragraphs (1) and (2) so that runoff from the land development is controlled in accordance with the findings in the study or model, or to prevent adverse watershed stormflow timing, channel degradation, and/or localized flooding problems.~~
- ~~(4) In addition to the requirements of paragraphs (1) and (2), the program authority may require that the plan include additional measures to address damaging conditions to downstream properties and receiving waterways caused by the land development.~~
- ~~(b) Pre-development and post-development runoff rates determined for purposes of paragraph (a) shall be verified by calculations that are consistent with accepted engineering practices, as determined by the program authority.~~
- ~~(c) Notwithstanding any other provisions of this Article, the following activities are exempt from the requirements of this section:~~
 - ~~(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;~~
 - ~~(2) Tilling, planting or harvesting of agricultural, horticultural, or forest crops;~~
 - ~~(3) Construction, extension or replacement of a building or buildings on a site of 5,000 square feet or less, not including cases where development is to be done in phases and the total land disturbance for all phases is greater than 5,000 square feet;~~
 - ~~(4) Land development or a portion of a land development on land which is designated as lying within a flood plain, except in cases where the flood plain has been modified by permitted fill or other activities in compliance with the zoning ordinance;~~
 - ~~(5) Land development or a portion of a land development where the land is adjacent to a flood plain, and the owner has demonstrated to the reasonable satisfaction of the program authority that off site improvements or other provisions for the disposition of surface water runoff would equally or better serve the public interest and safety, and that such method of disposition would not adversely affect downstream properties or stream channels; and~~
 - ~~(6) Any land development related to a final site plan or plat approved by the appropriate governing authority prior to the effective date of this Chapter.~~

SECTION 9-59. BEST MANAGEMENT PRACTICES.

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(a) Each stormwater management/~~BMP~~ plan shall require that best management practices be provided in conjunction with or in addition to stormwater management facilities designed for water quantity treatment, as provided herein:

- (1) Best management practices shall be designed and sited to capture runoff from the entire land development project area and, in particular, areas of impervious cover within the land development, to the maximum extent practicable.
- (2) Best management practices shall be designed to remove the difference between post-development and pre-development total phosphorus loads in cases where post-development loads exceed pre-development loads.
- (3) Calculation methods and expected removal ranges for various best management practices shall be included in the ~~design manual~~Public Services Standards Manual maintained by the program authority.

~~(b) Notwithstanding any other provisions of this Article, the following activities are exempt from the requirements of this section:~~

- ~~(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;~~
- ~~(2) Tilling, planting or harvesting of agricultural, horticultural, or forest crops; and~~
- ~~(3) Single-family dwelling units separately built and not part of a division of land, including additions or modifications to existing single-family detached dwelling units, except if the land disturbance exceeds 5,000 square feet.~~

(b) Non-structural measures may be used in conjunction with or in place of structural measures in order to satisfy the requirements of this Article, as provided herein:

- (1) The program authority may allow non-structural measures to satisfy, partially or in whole, the requirements of this Article, if such measures are identified in accepted technical literature, are acceptable to the program authority based on its exercise of sound professional judgment, and the program authority finds that the measures achieve equivalent benefit for water quantity and/or quality protection as would otherwise be provided by structural measures.
- (2) Non-structural measures include, but are not limited to, minimization of impervious surfaces, stream buffer reforestation, providing additional stream buffer areas, wetland restoration, waste reuse and recycling, and development design that reduces the rate and volume of runoff.

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.3.~~

SECTION 9-60. CONTRIBUTION TO REGIONAL STORMWATER MANAGEMENT PROGRAM.

(a) Each stormwater management/~~BMP~~ plan shall require that the owner contribute to a regional stormwater management program, as provided herein:

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- (1) If the land development is located within the watershed of a regional stormwater management program established by the ~~county~~ City which requires pro rata share contributions, the owner shall pay a pro rata share of the cost of the facility in accordance with any ordinance of the ~~county~~ City establishing the program.
- (2) An owner's payment pursuant to paragraph (1) shall relieve the owner of the requirements of ~~section~~ Section 17-3149-56(c), if the regional program is designed to control the peak rate and velocity of runoff, and/or the requirements of ~~section~~ Section 17-3159-59, if the regional program is designed to provide best management practices. An owner's payment pursuant to paragraph (1) shall not relieve an owner of his responsibility to comply with any other requirement of this Chapter, except as provided in this section.

~~Commonwealth of Virginia law reference—Va. Code § 10.1-603.3.~~

SECTION 9-61. REVIEW OF STORMWATER MANAGEMENT PLAN; APPROVAL.

- (a) Each stormwater management plan submitted pursuant to this Article shall be reviewed and approved as provided herein:
 - (1) The plan shall be reviewed by the program authority to determine its compliance with the requirements of this Article and with applicable ~~Federal~~ local, state, and federal and Commonwealth of Virginia laws and regulations. Where a proposed stormwater management plan includes facilities or BMPs for which design requirements and specifications, and/or maintenance requirements, are specified ~~with~~ in the Virginia Stormwater Management (SWM) Handbook and/or on the Virginia BMP Clearinghouse website, and/or the Virginia Stormwater Management Regulations set forth within 4VAC 3-20 et seq., the program authority shall utilize those design requirements, specifications and/or maintenance requirements in reviewing and making decisions as to the acceptability of such facilities or BMPs under this Article.
 - (2) During its review of the plan, the program authority may meet and correspond with the owner from time to time to review and discuss the plan with the owner, and to request any additional data as may be reasonably necessary for a complete review of the plan.
 - ~~(3) The program authority shall approve or disapprove a plan within 45 days from the date a complete application was received. The decision of the program authority shall be based on the plan's compliance with the requirements of this Article and with applicable Commonwealth of Virginia laws and regulations. The decision shall be in writing and shall be communicated to the applicant by mail or delivery. If the plan is rejected or disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. If the program authority fails to act on a plan within the 45-day period, the plan shall be deemed approved.~~
 - (4) Nothing in this Article or section shall require approval of a plan, or any portion thereof, that is determined by the program authority to pose a danger to the public health, safety, or general welfare, or to deviate from sound engineering practices.

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- (b) The Administrator shall determine the completeness of a plan and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete. If a determination of completeness is not made within 15 calendar days of receipt, then the plan shall be deemed complete.
- (c) The program authority shall approve or disapprove a plan within 60 days from the date a complete application was received, provided that for any plan that is deemed complete in accordance with paragraph (b) of this section, the program authority shall approve or disapprove the plan within 60 days from the date the plan was submitted to the program authority. The decision of the program authority shall be based on the plan's compliance with the requirements of this Article and with applicable local, state and federal laws and regulations. The decision shall be in writing and shall be communicated to the applicant by mail or delivery. If the plan is rejected or disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. If the program authority fails to act on a plan within the 60-day period, the plan shall be deemed approved. The Administrator shall review any plan that has been previously disapproved within 45 calendar days of the date of resubmission.
- (e) Each stormwater management/BMP plan approved by the program authority shall be subject to the following:
- (1) The owner shall comply with all applicable requirements of the approved plan, this Article, the Virginia Stormwater Management Act (Virginia Code §§ 10.1-603.2 et seq.), and the Commonwealth of Virginia stormwater management regulations set forth in 4 VAC 3-20-10 et seq.;
 - (2) The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
 - (3) Land development shall be conducted only within the area specified in the approved plan;
 - (4) The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by provision (e)(2);
 - (5) The program authority may require, in conjunction with its approval of a plan, that the owner first enter into a stormwater management/BMP facilities maintenance agreement as provided in section 9-63;
 - (6) The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections as provided in section 9-67; and
 - (7) The program authority may require, as a condition of plan approval, that the owner enter into a right of entry agreement or grant an easement for purposes of inspection and maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.

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SECTION 9-62. CONDITIONS OF APPROVAL.

(ea) Each stormwater management/BMP plan approved by the program authority shall be subject to the following conditions, at a minimum:

- (1) The owner shall comply with all applicable requirements of the approved plan, this Article, and the Virginia Stormwater Management Act (Virginia Code §§ 10.1-603.2 et seq.) and Regulations, and the Commonwealth of Virginia stormwater management regulations set forth in 4 VAC 3-20-10 et seq.;
- (2) The owner shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
- (3) Land development shall be conducted only within the area specified in the approved plan;
- (4) The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by ~~provision~~paragraph (ed)(2) of this section;
- (5) The program authority may require, in conjunction with its approval of a plan, that the owner first enter into a stormwater management/BMP facilities maintenance agreement as provided in sSection 9-63; and
- (6) The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections of the land development in accordance with Section 9-67 to determine the owner's compliance with the provisions of this Article. The program authority may require, as a condition of plan approval, that the owner enter into a right of entry agreement or grant an easement for purposes of inspection and maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.

~~Each stormwater management plan approved by the program authority shall be subject to the following:~~

- ~~(a) The owner shall comply with all applicable requirements of this Article, the Virginia Stormwater Management Act (Va. Code §§10.1-603.2 et seq), the Commonwealth of Virginia stormwater regulations set forth in 4 VAC 3-20-10 et seq, and the Virginia Stormwater Management Handbook.~~
- ~~(b) The owner shall certify in writing that all land clearing, construction, land development and drainage will be done according to the approved plan.~~
- ~~(c) Land development shall be conducted only within the area specified within the approved plan.~~
- ~~(d) The rights granted by virtue of the approved plan shall not be transferred, assigned or sold unless a written notice of transfer, assignment or sale is filed with the program authority and the recipient of such rights provides the certification required by provision (b), above.~~

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~~(e) The program authority shall be allowed, after giving reasonable notice to the owner, occupier or operator of the land development, to conduct periodic inspections of the land development to determine the owner's compliance with the provisions of this Article. The program authority may require, as a condition of approval of a stormwater management plan, that the owner enter into a right of entry agreement, or grant an easement, for purposes of inspection and maintenance. If such agreement or easement is required, the program authority shall not be required to give notice prior to conducting an inspection.~~

~~(3) The condition(s) requiring monitoring and reporting shall state the format of the report and the frequency for submitting.~~ **SECTION 9-63. DUTY TO COMPLY, MAINTAIN AND REPAIR; MAINTENANCE AGREEMENT.**

- (a) The owner shall maintain and repair all structural and nonstructural stormwater management measures required by the plan, as follows:
- (1) The owner shall be responsible for the operation and maintenance of such measures and shall pass such responsibility to any successor owner, unless such responsibility is lawfully transferred to the City or to another governmental entity.
 - (2) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other measures specified to manage the quality and quantity of runoff. If an approved a stormwater management plan includes the use of requires structural or nonstructural measures best management practices, the owner shall execute a stormwater management facilities maintenance agreement prior to the program authority granting final approval for any site plan or other development for which a permit is required of the stormwater management plan. The required stormwater management facilities maintenance agreement shall be in a form approved by the City Attorney. If an owner certifies that it he cannot exercise its rights under a purchase agreement until a site plan or other development plan receives final approval from the City, the program authority may grant its final approval without a signed an executed and recorded agreement, provided that the agreement is submitted to the Administrator for review and approval prior to the approval of the stormwater management plan, and is signed executed and recorded as provided herein prior to issuance of any certificate of occupancy for any building on the site the development project. The agreement shall be recorded in the office of the clerk of the Circuit Court for the City of Winchester and shall, at a minimum:
 - (i) Be stated to run with the land. If an owner certifies that it cannot exercise its rights under a purchase agreement until a site plan or other development receives final approval from the City, the program authority may grant its final approval without a signed agreement, provided that the agreement is signed and recorded as provided herein prior to issuance of any certificate of occupancy for the development project. The required stormwater management facilities maintenance agreement shall be in a form approved by the City Attorney and shall, at a minimum:

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- (ii) Provide for all necessary access to the property for the purposes of maintenance and regulatory inspections;
- (iii) Provide for periodic inspections and the submission of inspection and maintenance reports to the Administrator;
- (iv) Designate for the land development the owner, governmental agency, or other legally-established entity which shall be permanently responsible for maintenance of the structural or non- structural measures required by the plan;
- (v) Pass the responsibility for such maintenance to successors in title;
~~and~~
- (vi) Ensure the continued performance of the maintenance obligations required by the plan and by this Article.; ~~and~~
- (vii) Be enforceable by all appropriate governmental parties.

SECTION 9-64. AMENDMENT OF APPROVED STORMWATER MANAGEMENT PLANS.

~~An approved stormwater management plan may be changed or amended only as provided herein:~~

- (a) The program authority may change an approved stormwater management/~~BMP~~ plan only as provided herein.
- (~~b~~) The owner shall submit ~~additional data identified in section — (plan requirements)~~information as required by Section 9-51 in order to allow the program authority to determine whether any such change ~~will comply~~complies with the requirements of this Article.
- (~~b~~) The owner shall submit to the program authority a written request and justification for a change or amendment of an approved stormwater management plan, and shall provide such data as may be required by the program authority in order to determine whether the proposed change will comply with the requirements of this Article.
- (~~e~~) The program authority shall conduct its review and shall make its decision with respect to the proposed change in accordance with the procedures for initial submission and approval of a stormwater management plan. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving of the request for an amendment.~~(d) If the proposed change to the approved plan complies with the requirements of this Article, the program authority shall approve such proposed change in writing.~~
- (e) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. An owner shall make no changes to an approved plan without first complying with this section.
- (f) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies

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noted during an inspection.

SECTION 9-65. EXCEPTIONSRESERVED.

~~Other than requests for permission to develop within a required stream buffer, which requests shall be handled pursuant to §9-74, a request for an exception to the requirements of this Article shall be made and reviewed as follows:~~

- ~~(a) A written request for an exception shall be submitted to the program authority, which shall immediately forward a copy of the request to the City attorney's office. The request shall address the factors listed in paragraph (c), below:~~
- ~~(b) After receiving and considered a recommendation from the program authority, the City council shall grant or deny a request for an exception within 60 days from the date of the program authority's receipt of the request.~~
- ~~(c) A request for exception may be granted by the City Council, upon finding that:
 - ~~(1) A stormwater management plan has been submitted to the program authority for review in accordance with this Article, and the plan demonstrates that reasonable alternatives to the exception have been considered and determined to not be feasible through attempts to meet the provisions of this Article, the use of non-structural measures, the use of a mitigation plan, or by other means;~~
 - ~~(2) The exception requested is the minimum necessary to afford relief;~~
 - ~~(3) Reasonable and appropriate conditions can be imposed to ensure that the purposes of this Article are satisfied; and~~
 - ~~(4) The sole basis for the request is not economic hardship, which shall be deemed an insufficient reason to grant an exception.~~~~

SECTION 9-66. DEDICATION OF FACILITIES TO THE PUBLIC.

The owner of a stormwater management facility required by this Article may offer for dedication any such facility, together with such easements and appurtenances as may be reasonably necessary, as provided herein:

- (a) Any such offer shall be made in writing and delivered to the office of the City attorney, with a copy to the program authority. The owner, at his sole expense, shall provide any documents or information requested by the program authority or the City Council. The program authority shall make a preliminary assessment as to whether the dedication of such facility is appropriate and will promote the public health, safety and general welfare. In making its assessment, the program authority shall inspect the facility in question and shall determine whether it has been properly maintained and is in good repair. The program authority shall estimate the annual cost of maintenance and repair of the facility, and of the remaining useful life of the facility. The program authority shall forward a report of its assessment to the City Council.
- (b) The City Council shall review the offer, taking into account the recommendations of

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the program authority and other City staff or officials, and may accept or refuse the offer of dedication.

- (c) If the City Council decides to accept the offer of dedication, the document dedicating the stormwater management facility shall be recorded in the office of the clerk of the Circuit Court for the City of Winchester.
- (d) If the dedication of a stormwater management facility is required by City ordinance as a condition of approval of a subdivision plat, then the applicable provision of the City's subdivision ordinance shall apply in lieu of this section.

SECTION 9-67. INSPECTIONS.

The program authority shall inspect any land subject to an approved stormwater management plan, as provided herein:

- (a) The program authority shall inspect the land disturbing activity during construction for:
 - (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan;
 - (3) Development, updating, and implementing of a pollution prevention plan; and
 - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The Administrator or any duly authorized agent of the Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purposes of obtaining information of conducting surveys or investigations necessary in the enforcement of the provisions of this Article.
- (ac) During the installation of stormwater management measures, or the conversion of erosion and sediment control measures into stormwater management measures, the program authority shall conduct periodic inspections to determine whether such measures are being installed as provided in the approved plan.
- (ad) Upon completion of the installation of stormwater management measures, the program authority shall conduct periodic inspections to determine whether such measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan.
- (ae) ~~The inspections shall be conducted at least annually, measured from the date the installation or implementation of the stormwater management measures is deemed by the program authority to be complete.~~ The inability of the program authority to conduct inspections within the time periods set forth in this ~~paragraph~~ section shall not be deemed to be a failure of the program authority to perform a mandatory duty or a ministerial function, and no liability to the City, the program authority, or any official or employee thereof shall arise therefrom.
- (af) The program authority shall be allowed, after giving notice to the owner, occupier or

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operator of the land development, to conduct any inspection required by this section. The notice may be either verbal or in writing. Notice shall not be required if the program authority and the owner have entered into a right of entry agreement, or if the owner has granted to the program authority an easement for purposes of inspection and maintenance.

(g) Notwithstanding any other provision of this section or Article, post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly authorized agent of the Administrator pursuant to the City's inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in the stormwater management facilities maintenance agreement executed in accordance with Section 9-63, measured from the date the installation or implementation of the stormwater management measures is deemed by the program authority to be complete.

SECTION 9-68. DETERMINATION OF NONCOMPLIANCE WITH PLAN; PROCEDURE.

- (a) Upon a determination by the program authority that an owner has failed to comply with an approved VSMP authority permit or stormwater management plan, or any conditions thereof, the following enforcement provisions and procedures shall apply:
- (1) The program authority shall serve upon the owner, permittee, or person responsible for implementing the permit a written notice to comply. The notice shall be served by certified mail, to the owner's address of record with the City assessor's office, or by personal delivery to the owner, or by personal delivery to an agent or employee at the site of the permitted activities who is supervising such activities. The notice shall:
 - (i) Instruct the owner to take corrective measures immediately, when immediate action is necessary to prevent or abate drainage, erosion, or water pollution problems;
 - (ii) Specify the measures required to comply with the approved plan or permit, or any conditions thereof;
 - (iii) Specify the time within which such required measures must be completed; and
 - (iv) Include copies of inspection reports or other such documentation demonstrating non-compliance with the approved plan or permit, or any conditions thereof.
 - (2) If a permittee fails to comply with a notice issued in accordance with paragraph (a)(1) of this section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed. Such orders

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shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by the Administrator or any duly authorized agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Section 9-69.

(3) If the owner fails to take corrective measures stated in the notice to comply, within the time specified in the notice, then the City may revoke any building permit or other permit for activities involving the land development, and the owner shall be deemed to be in violation of this Article.

(34) If the program authority determines, upon completion of a maintenance inspection, that maintenance or repair of the measures has been neglected, or that any stormwater management facility is a danger to public health or safety, it may perform the work necessary to assure that such measures or facilities are not a danger to public health or safety, and shall be entitled to recover the costs of such work from the owner. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument pursuant to Section 9-9 and/or Section 9-63 of this Chapter, the Administrator may enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(5) In addition to any other remedy provided by this ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the Public Services Standards Manual, as applicable.

SECTION 9-69. PENALTIES, INJUNCTIONS AND OTHER LEGAL ACTIONS.

Enforcement of this Article shall be as follows:

- (a) Any person who violates any provision of this Article shall be guilty of a misdemeanor and shall be subject to a fine not exceeding one thousand dollars

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(\$1,000.00), or up to 30 days imprisonment for each violation, or both.

Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully and negligently violates any provision of this Article, any order of the Administrator, any condition of a permit, or any order of a court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

(b) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in Circuit Court by the City to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. The City may apply to the Circuit Court to enjoin a violation or threatened violation of the provisions of this Article, without the necessity of showing that an adequate remedy at law exists.

(c) Without limiting the remedies that may be obtained pursuant to this section, the City may bring a civil action against any person for violation of any provision of this Article, or of any term or condition of a permit, plan, or maintenance agreement. The action may seek the imposition of a civil penalty of not more than two thousand dollars (\$2,000.00) against the person for each violation. Each day of violation of each requirement shall constitute a separate offense. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court. In imposing a civil penalty pursuant to this paragraph, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance. Violations for which a penalty may be imposed under this paragraph shall include but not be limited to the following:

- (1) No state permit registration;
- (2) No SWPPP;
- (3) Incomplete SWPPP;
- (4) SWPPP not available for review;
- (5) Failure to install stormwater BMPs;
- (6) No approved erosion and sediment control plan;
- (7) Stormwater BMPs improperly installed or maintained;
- (8) Operational deficiencies of stormwater BMPs;
- (9) Failure to conduct required inspections or maintenance;
- (10) Incomplete, improper, or missed inspections; and
- (11) Discharges not authorized or not in compliance with the requirements of Section 9VAC25-880-70 of the general permit coverage issued for the land-disturbing activity.

Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid into the treasury of the City to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(d) With the consent of any person who has violated or failed, neglected or refused to obey, or comply with any permit, obligation or a plan or agreement, or any

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provision of this Article, the program authority may provide, in an order issued by the program authority against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified above in paragraph (c). Such civil charges shall be in lieu of any civil penalty which could be imposed under paragraph (c).

~~SECTION 9-70. REVIEW OF CERTAIN PROGRAM AUTHORITY ACTIONS.~~

~~Any person who is aggrieved by any action of the program authority because of its disapproval of a plan submitted pursuant to this Article, or in the interpretation of the provisions of this Article, shall have the right to apply for and receive a review of such action by the City Council, as provided herein.~~

~~(a) An appeal shall be filed in writing with the clerk of the board of supervisors within thirty (30) days of the date notice of the action is given by the program authority or, if an exception to the requirements of this Article as provided in section 17-308 is requested and denied, within thirty (30) days of the date notice of the denial of such exception. Notice shall be deemed to be given on the date that it is mailed or is hand-delivered.~~

~~(b) When reviewing the program authority's action, the City Council shall consider evidence and opinion presented by the aggrieved person, the program authority, and such other persons as shall be deemed by the City Council to be necessary for a complete review of the matter. The City Council may affirm, reverse or modify the program authority's action. The decision of the City Council shall be final, subject only to review by the Circuit Court as provided in Virginia Code § 10.1-603.13.~~

~~(c) For the purposes of this section, the term person aggrieved shall be limited to the owner, owners of adjacent or down-stream property, and any interested governmental agency or officer thereof.~~

SECTIONS ~~9-71-70~~ - 9-79. RESERVED.

ARTICLE IV. STREAM BUFFERS

SECTION 9-80. DUTY TO RETAIN OR ESTABLISH STREAM BUFFER.

(a) Except as otherwise provided in this Article, any land adjacent to the following listed waters, and/or nontidal wetlands adjacent to these streams, shall provide buffers for the purposes of retarding runoff, preventing erosion, and filtering

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nonpoint source pollution from runoff:

- (1) Abrams Creek
 - (2) Town Run
 - (3) Hogue Run
 - (4) Buffalo Lick Run
 - (5) Redbud Run
- (b) A required stream buffer shall be no less than thirty-five (35) feet wide on each side of the stream, which buffer shall be measured horizontally from the top of the stream bank.
- (c) Existing stream buffers shall be retained, except as allowed in §9-83(d).
- (d) Each required stream buffer shall be maintained and incorporated into the design of the land development to the fullest extent possible.
- (e) Within a required stream buffer, no indigenous vegetation shall be disturbed or removed, except as follows:
- (1) Activities pertaining to the management of the stream buffer, identified in §9-81 of this Article;
 - (2) Development activities authorized in a stream buffer, identified in §9-83;
 - (3) Activities authorized in §9-82;
 - (4) Tilling, planting or harvesting of agricultural or horticultural crops in home gardens.
- (f) With respect to developments that are required to have an approved site plan, and involving land containing existing and/or required stream buffers, contour lines shall be shown at two-foot intervals. In any case where any proposed development

(Ord. No. 2007-14, 5-8-07)

SECTION 9-81. MANAGEMENT OF A STREAM BUFFER.

Each stream buffer required to be established or maintained pursuant to this Article shall be managed as provided herein:

- (a) The target vegetative cover in a stream buffer area shall be an indigenous riparian forest with ground cover, shrub and tree canopy layers.
- (b) Within twenty-five (25) feet of the top of the stream bank and on land classified as nontidal wetland:
 - (1) Indigenous riparian vegetation shall be preserved, or, where it does not exist, it shall be restored or allowed to evolve by natural succession;
 - (2) Dead, diseased, and dying trees may be removed;

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- (3) Fallen trees that are blocking stream channels, or trees with undermined root systems in imminent danger of falling, may be removed where stream bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the stream ecosystem;
 - (4) Removal or pruning of invasive shrub and vine species is allowed, provided that such removal or pruning is done in a manner that prevents erosion;
 - (5) Unpaved pathways and trails may be constructed and maintained in a manner that will effectively control erosion and to minimize adverse impacts to the buffer, subject to applicable provisions of §9-83, below; and
 - (6) Stormwater channels may be constructed and maintained in a manner that will prevent erosion and minimize adverse impacts to the buffer.
- (c) Beyond twenty-five (25) feet from the top of the stream bank to the limits of the required buffer:
- (1) Dead, diseased and dying trees may be removed;
 - (2) Trees 6 inches in diameter or greater, measured 48 inches from the ground, shall be preserved;
 - (3) Removal or pruning of invasive shrub and vine species shall be allowed, provided that such removal or pruning is done in a manner that prevents erosion; and
 - (4) Unpaved pathways and trails may be constructed and maintained in a manner that will effectively control erosion and minimize adverse impacts to the buffer, subject to applicable provisions of §9-83, below.
 - (5) Stormwater channels may be constructed and maintained in a manner that will prevent erosion and minimize adverse impacts to the buffer.
- (d) Where an existing structure (i.e. building, street, road, bridge, etc.) is located within the buffer, vegetation, not including the ground cover, can be removed within 15 feet of the structure. Removal of additional vegetation can be allowed if required by State or Federal requirements or if necessary for the health, safety or welfare of the City's citizens and approved by the City Engineer.

SECTION 9-82. DEVELOPMENT EXEMPT FROM STREAM BUFFER REQUIREMENTS.

The following types of development shall not be required to retain, establish or manage a stream buffer, provided that the requirements of this section are satisfied:

- (a) The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the Erosion and Sediment Control Law (Virginia Code §§10.1-560 et seq.) or an erosion and sediment control plan approved by the Virginia ~~Soil and Water Conservation~~State Water Control Board.

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- (b) The construction, installation and maintenance by public agencies of water, sewer, electric and gas lines, including lines constructed by private entities for dedication to public agencies, provided that:
 - (1) To the extent practical, the location of such lines shall be outside required stream buffer areas;
 - (2) No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines; and
 - (3) Construction, installation and maintenance of such lines shall comply with applicable federal, state and local requirements and permits and be conducted in a manner that protects water quality.

SECTION 9-83. DEVELOPMENT AUTHORIZED IN A STREAM BUFFER.

If otherwise authorized by applicable regulations of the City's zoning ordinance, the following land development activities shall be allowed in a stream buffer area, provided that the requirements of this section are satisfied and performance standards established by the program authority are met:

- (a) A building or structure which existed on the date of adoption of this Chapter may continue at such location. However, nothing in this section authorizes the continuance, repair, replacement, expansion or enlargement of such building or structure except as authorized by the City's zoning ordinance.
- (b) On-site or regional stormwater management facilities, and temporary erosion and sediment control measures, provided that:
 - (1) To the extent practical the location of such facilities shall be outside the stream buffer;
 - (2) No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility;
 - (3) The facilities are designed and constructed so as to minimize impacts to the functional value of the stream buffer and to protect water quality; and
 - (4) Facilities located within a floodplain adhere to floodplain regulations and are designed and located, to the extent practical, to maintain their water quantity and/or water quality control value during flood conditions.
- (c) Water dependent facilities, passive recreation access (such as unpaved pathways and trails), historic preservation, and archaeological activities, provided that all applicable federal, state, and local permits are obtained.
- (d) Development in a stream buffer, where authorized by the program authority in the circumstances described below, may be allowed if a mitigation plan is submitted to and approved by the program authority pursuant to §9-84:

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- (1) On a lot which was of record prior to the date of adoption of this Chapter, if:
 - (i) Establishment or preservation of the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the lot, or
 - (ii) The proposed development consists of redevelopment not exceeding the current level of encroachment resulting from existing improvements, or
 - (iii) The proposed development is for construction of an accessory building or structure (including, without limitation, an accessory apartment) permitted by the City's zoning ordinance.
- (2) On a lot on which development within the stream buffer will consist of an ecological/wetland restoration project;
- (3) On a lot on which the development in the stream buffer will consist of the construction and maintenance of a driveway or roadway, and the program authority determines that the stream buffer would prohibit reasonable access to a portion of the lot which is necessary for the owner to have a reasonable use of the lot;
- (4) On a lot on which the development in the stream buffer will consist of the construction and maintenance of a paved pathway or trail not exceeding five (5) feet in width;
- (5) On a lot which was of record prior to the date of adoption of this Chapter, on which development within the stream buffer will consist of the construction, installation and maintenance of water and sewer facilities or sewage disposal systems, and the program authority determines that the stream buffer would prohibit the practicable development of such facilities or systems.
- (6) On a lot on which the development in the stream buffer will consist of the construction and maintenance of the Green Circle Trail System.

(Ord. No. 2007-14, 5-8-07)

SECTION 9-84. MITIGATION PLAN REQUIRED.

Each owner who seeks to develop in a stream buffer pursuant to §9-83(d) shall submit to the program authority for review and approval a mitigation plan as provided herein:

- (a) The owner shall submit a mitigation plan that satisfies the applicable requirements of this section; the required fee, as set forth within the most recent fee schedule approved by City Council; and a certification stating that all requirements of the approved plan will be complied with.
- (b) The mitigation plan shall be reviewed by the program authority to determine whether it complies with the requirements of this section and all other

WATER PROTECTION

requirements of this Article. The program authority shall approve or disapprove a mitigation plan within 30 days of the date that a complete plan was accepted for review. The decision shall be in writing and shall be communicated to the owner. If the plan is disapproved, the reasons for such disapproval shall be stated in the decision.

(c) Each mitigation plan shall:

- (1) Identify the impacts of proposed development on water quality and lands within the stream buffer;
- (2) Identify the alternatives to development in the stream buffer that have been explored by the applicant;
- (3) Ensure that, where development does take place within a stream buffer, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of the stream buffer;
- (4) Demonstrate and assure that development will be conducted using best management practices;
- (5) Specify mitigation which will address water quality and stream buffer impacts; and
- (6) Contain other information requested by the program authority.

(d) Each mitigation plan shall be evaluated by the program authority based on the following criteria:

- (1) Whether all reasonable alternatives to development in the stream buffer have been explored and exhausted;
- (2) Whether the development in the stream buffer is the minimum necessary and is to be conducted in a manner that will be least disruptive to the natural function of the stream buffer; and
- (3) Whether best management practices will effectively mitigate adverse impacts from the encroachment on the stream buffer and its natural functions.

SECTION 9-85. INSPECTIONS

The program administrator shall inspect any land subject to establishing a vegetated stream buffer to insure that the buffers are installed as per the criteria outlined in Article IV.

SECTIONS 9-86 - 9-89. RESERVED.

ARTICLE V. STORM SEWER DISCHARGES

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SECTION 9-90. FINDINGS AND DETERMINATIONS.

- (a) Pollutants in stormwater from many sources are largely uncontrolled and have an adverse impact upon the quality of receiving waters. Major sources of stormwater that cause water quality impacts include construction sites, illicit connections, illegal discharges and industrial activities.
- (b) Amendments to the Federal Clean Water Act (CWA) in 1987 required the United States Environmental Protection Agency to establish National Pollutant Discharge Elimination System (NPDES) requirements for municipal separate storm sewer (MS4) systems. NPDES regulations require the City to control through ordinance, permit, contract or other available means (collectively, the City's "stormwater management program") the contribution of pollutants into waters of the United States.
- (c) This Article is adopted as an integral part of the City's stormwater management program.

SECTION 9-91. DISCHARGES TO THE CITY'S STORM SEWER SYSTEM.

- (a) It shall be unlawful and a violation of this Article to:
 - (1) Throw, drain, or otherwise discharge into the City's storm sewer system any pollutants or waters containing pollutants other than stormwater;
 - (2) Connect, or cause or allow to be connected, any sanitary sewer to the storm sewer system, any such connections owned or authorized by the City prior to April 11, 2006;
 - (3) Cause or allow any illicit connection to the City's storm sewer system; or
 - (4) Violate any condition or provision of this Article, or any permit or approval granted to allow any stormwater discharges to the City's storm sewer system.
- (b) Subject to the provisions of subsection (c) of this section, the following activities shall not be considered illicit discharges:
 - (1) Water line flushing;
 - (2) Landscape irrigation;
 - (3) Diverting stream flows or rising groundwater, or infiltration of uncontaminated groundwater;
 - (4) Public safety activities, including, but not limited to, law enforcement and fire fighting;
 - (5) Pumping of uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs, or water from crawl spaces or footing drains;
 - (6) Lawn watering;

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- (7) Individual car washing on residential properties;
 - (8) De-chlorinated swimming pool discharges (less than 1 PPM chlorine);
 - (9) Street washing;
 - (10) Any activity authorized by a valid National Pollutant Discharge Elimination System (NPDES) permit, waiver or discharge order, a Virginia Pollutant Discharge Elimination System (VPDES) permit, waiver or discharge order, or a Virginia Pollution Abatement (VPA) permit;
 - (11) Any activity by a governmental entity in accordance with Federal, state, and local regulations and standards for the maintenance or repair of drinking water reservoirs or drinking water treatment or distribution systems; and
 - (12) Any activity by the City, its employees and agents, in accordance with federal, state and local regulations and standards, for the maintenance of any component of its stormwater management system.
 - (13) Discharges specified in writing by the director as being necessary to protect public health and safety.
 - (14) Dye testing, following notification to the City engineer.
- (c) If any of the activities listed in subsection (b), above, of this section are found to be sources of pollutants to public waters, the Program Authority (as defined in §9-5 of this Chapter) shall so notify the person performing such activities and shall order that such activities be stopped or conducted in such manner as to avoid the discharge of pollutants into such waters. The failure to comply with any such order shall be unlawful and a violation of this Article.

SECTION 9-92. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such a person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity or the watercourse.

SECTION 9-93. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of such compliance may be required in a form acceptable to the Program Authority prior to allowing discharges to the City's storm sewer system.

SECTION 9-94. INSPECTIONS AND MONITORING.

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- (a) The Program Authority shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance. The Program Authority shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this Article, including the prohibition of illicit discharges to the storm sewer system. The Program Authority may monitor stormwater outfalls or other components of the municipal storm sewer system as may be appropriate in the administration and enforcement of this Article.

- (b) The Program Authority shall have the authority to require pollution prevention plans from any person whose discharges cause or may cause a violation of a VPDES permit.

SECTION 9-95. ENFORCEMENT, PENALTIES, REMEDIES.

- (a) A willful violation of the provisions of this Article shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this Article is maintained or permitted to remain shall constitute a separate offense.

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- (b) Any person who commits any act prohibited by this Article shall be liable to the City for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.
- (c) Any person who commits any act prohibited by this Article shall be subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) for each day that a violation continues. The court assessing such penalty may, at its discretion, order that the penalty be paid into the treasury of the City for the purpose of abating, preventing or mitigating environmental pollution.
- (d) The City may bring legal action to enjoin the continuing violation of this Article. The existence of any other remedy, at law or in equity, shall be no defense to any such action.
- (e) The Program Authority shall have authority to order that any activity found to be in violation of this Article be stopped or conducted in such a manner as to avoid the discharge of sewage, industrial wastes or other wastes into the storm sewer system.
- (f) Any discharge caused or permitted to exist in violation of any provisions of this Article constitutes a threat to the public health, safety and welfare, and is hereby declared and deemed a public nuisance. Following receipt of written notice of such nuisance from the Program Authority, if the responsible person fails to abate or obviate such nuisance, then the City may do so and charge and collect the cost thereof from the responsible person, in any manner provided by law (including, without limitation, any manner provided by law for the collection of state or local taxes).
- (g) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law.
- (h) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

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Budget Summary

July 1, 2013- December 31, 2013

General Fund Revenue & Exp. Summary

To date in fiscal year 2014 (July 2013 through December 31, 2013) the G F revenues are \$35,568,396 representing 44.46% of the budget. Prior period last year was \$34,123,350 or 41.77%. Expenditures in the General fund are currently at \$35,158,894 representing 43.93% of the budget. Last year, in FY 2013 for the same period, our expenses were at \$31,923,150 or 39.07%. Sales Tax receipts for Oct. 2013 were \$744,196. Sales Tax receipts for Oct. 2012 were \$654,722.

Old Town Information	Nov-12	Nov-13
Meals tax Primary Dist.	\$ 33,492	\$ 39,626
Meals tax Second Dist	\$ 15,394	\$ 15,042

	Amended	Bgt. (6 mos)	Actual
Revenue		\$34,999,994	\$35,568,396
Expenditures		\$34,999,994	\$35,158,894

Utility Fund Revenue & Exp. Summary

To date in fiscal year 2014 (July 2013 through December 31, 2013) the Utility fund revenues are \$10,405,703, representing 50.30% of the budget. Prior period last year was \$9,349,074 or 48.42%. Expenditures in the Utility fund are currently at \$10,774,529 representing 52.08% of the budget. Last year, in FY 2012 for the same period, our expenses were at \$10,821,319 or 56.05%.

	Operating	Bgt. (6 mos)	Actual
Revenue		\$10,344,498	\$10,405,703
Exp.		\$10,344,498	\$10,774,529

Highlights

- 1 November Sales tax is \$753,613
- 2 Sales tax up \$74,197 comparing period to period
- 3 Meals and Motel tax are up \$120,643 from last year
- 4 Reserved cash below reflects \$20,191,249 bond proceeds

Highlights

- 1 Water & Sewer collections up \$1,062,986 from the same period last year.
- 2 Availability fees up \$16,040 from same period last fiscal year.
- 3 Capital expenditures to date are \$60,712

Operating Cash

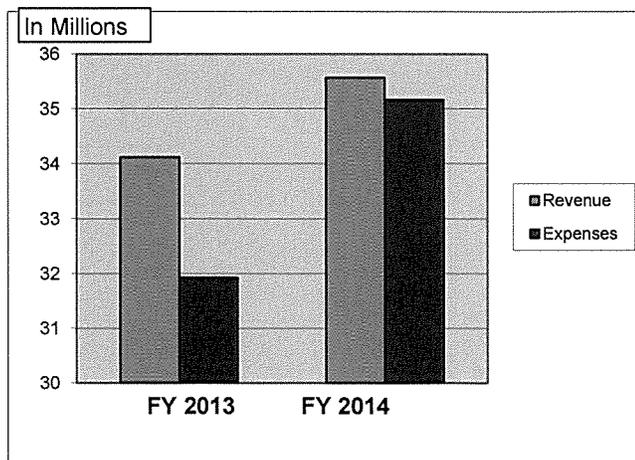
* Total Cash:	\$43,317,027	Fund balance
Reserved cash:	(20,713,669)	Committed to date
Available cash:	\$22,603,358	\$2,117,975
* December-13	(General fund only)	

Cash & Investments

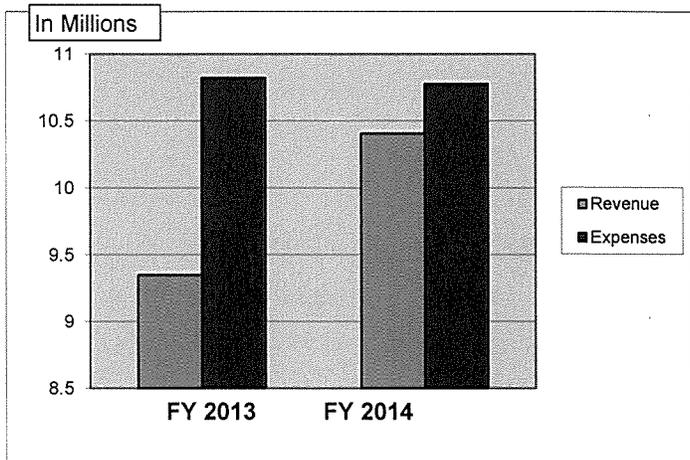
Operating Cash:	(\$591,350)
Reserves for CIP:	0
Bond Proceeds:	0
Total:	(\$591,350)
	As of Dec 2013

Period to Period Comparison FY 2013 to FY 2014

General Fund



Utilities Fund



PROGRAM GM601L

FOR FISCAL YEAR 2014

CRVPD06

JULY 1,2013 - DECEMBER 31, 20 13

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 1 GENERAL PROPERTY TAXES							
111-0000-311.01-01	CURRENT	11,974,954	24,647,530	25,539,000	25,539,000	11,470,444	44.91
111-0000-311.01-02	DELINQUENT	487,583	1,195,411	900,000	900,000	754,276	83.81
111-0000-311.01-03	DELINQUENT-PRIM/SECOND	7,634	11,410	10,000	10,000	6,980	69.80
111-0000-311.01-04	PRIMARY DISTRICT	36,218	70,321	70,000	70,000	30,127	43.04
111-0000-311.01-05	SECONDARY DISTRICT	41,081	82,567	80,500	80,500	34,791	43.22
111-0000-311.01-06	PENALTIES	48,922	112,900	92,000	92,000	70,083	76.18
111-0000-311.01-07	INTEREST	28,238	87,861	50,000	50,000	62,878	125.76
111-0000-311.02-01	REAL ESTATE	686,590	686,590	670,000	670,000	641,635	95.77
111-0000-311.02-03	PERSONAL PROPERTY	247	247	500	500	267	53.42
111-0000-311.03-01	CURRENT	5,186,549	7,100,416	7,300,000	7,300,000	5,520,416	75.62
111-0000-311.03-02	DELINQUENT	67,644	308,397	250,000	250,000	120,327	48.13
111-0000-311.03-03	MOBILE HOME TAXES	1,420	1,866	1,000	1,000	1,117	111.73
111-0000-311.03-04	MACHINERY & TOOLS	1,228,688	1,636,534	1,900,000	1,900,000	1,891,880	99.57
111-0000-311.03-06	PENALTIES	42,439	141,455	120,000	120,000	52,571	43.81
111-0000-311.03-07	INTEREST	60-	31,929	50,000	50,000	25,966	51.93
* GENERAL PROPERTY TAXES		19,838,147	36,115,434	37,033,000	37,033,000	20,683,757	55.85
SUB 2 OTHER LOCAL TAXES							
111-0000-312.01-01	STATE SALES TAX	2,734,802	8,718,682	8,500,000	8,500,000	2,808,999	33.05
111-0000-312.01-02	COMMUNICATIONS TAXES	926,358	2,199,696	2,200,000	2,200,000	899,177	40.87
111-0000-312.02-01	ELECTRIC UTILITY	567,281	1,325,208	1,300,000	1,300,000	545,073	41.93
111-0000-312.02-02	TELEPHONE UTILITY	0	0	0	0	62	.00
111-0000-312.02-03	GAS UTILITY	89,883	530,538	390,000	390,000	117,754	30.19
111-0000-312.02-51	ELECTRIC CONSUMPTION	57,404	136,308	135,000	135,000	52,256	38.71
111-0000-312.02-52	GAS CONSUMPTION	56,747	22,210	25,000	25,000	2,864	11.46
111-0000-312.03-01	CONTRACTING	56,095	346,846	400,000	400,000	7,969	1.99
111-0000-312.03-02	RETAIL	24,015	2,065,382	2,150,000	2,150,000	56,199	2.61
111-0000-312.03-03	PROFESSIONAL	46,912	2,245,940	2,200,000	2,200,000	42,916	1.95
111-0000-312.03-04	REPAIR & PERSONAL	20,404	757,698	800,000	800,000	57,771	7.22
111-0000-312.03-05	WHOLESALE	662	183,222	200,000	200,000	9,596	4.80
111-0000-312.03-06	OTHER	445	2,531	4,000	4,000	1,941	48.52
111-0000-312.03-07	PENALTIES	17,777	54,949	75,000	75,000	27,037	36.05
111-0000-312.03-09	TELEPHONE	0	80,321	80,000	80,000	62	.08

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 2 OTHER LOCAL TAXES							
111-0000-312.04-01	CABLE	19,949	0	0	0	0	.00
111-0000-312.04-02	ELECTRICAL	52,807	216,259	200,000	200,000	89,499	44.75
111-0000-312.04-03	TELEPHONE ROW	35,572	95,021	70,000	70,000	46,964	67.09
111-0000-312.04-05	GAS	24,375	48,750	50,000	50,000	24,375	48.75
111-0000-312.05-01	LICENSES	260,473	518,723	550,000	550,000	282,282	51.32
111-0000-312.05-03	PENALTIES	17,920	39,080	40,000	40,000	21,974	54.94
111-0000-312.06-01	BANK FRANCHISE	21,038	490,943	430,000	430,000	1,586	.37
111-0000-312.07-01	RECORDATION	86,689	218,429	200,000	200,000	98,375	49.19
111-0000-312.07-02	WILL PROBATE	2,025	5,485	10,000	10,000	3,401	34.01
111-0000-312.08-02	CIGARETTES	270,750	530,667	580,000	580,000	271,440	46.80
111-0000-312.09-01	ADMISSIONS	3,231	6,645	100,000	100,000	62,792	62.79
111-0000-312.09-02	PENALTIES	0	65	0	0	792	.00
111-0000-312.09-03	INTEREST	0	7	0	0	0	.00
111-0000-312.10-01	MOTEL	300,859	678,881	650,000	650,000	327,468	50.38
111-0000-312.10-02	PENALTIES	145	856	0	0	615	.00
111-0000-312.10-03	INTEREST	12	108	0	0	42	.00
111-0000-312.11-01	MEALS	2,268,149	5,516,918	5,500,000	5,500,000	2,362,183	42.95
111-0000-312.11-02	PENALTIES	7,608	19,937	20,000	20,000	8,053	40.26
111-0000-312.11-03	INTEREST	545	925	1,000	1,000	90	8.95
111-0000-312.12-01	SHORT TERM	1,906	8,029	15,000	15,000	2,409	16.06
111-0000-312.12-02	PENALTIES	16	26	0	0	0	.00
* OTHER LOCAL TAXES		7,972,857	27,065,285	26,875,000	26,875,000	8,234,014	30.64
SUB 3 PERMITS, PRIVILEGE FEES							
111-0000-313.01-01	DOG	1,865	12,611	11,000	11,000	2,003	18.21
111-0000-313.03-03	ON STREET PARKING	95	135	100	100	55	55.00
111-0000-313.03-05	TRANSFER FEES	264	627	1,000	1,000	278	27.81
111-0000-313.03-24	EROSION, SEDIMENT CONTROL	1,200	3,750	6,000	6,000	1,563	26.04
111-0000-313.03-28	WEAPONS	2,926	7,406	6,500	6,500	3,043	46.82
111-0000-313.03-30	RE TAX APPLICATION FEE	0	160	0	0	20	.00
111-0000-313.03-31	RE PUBLIC HEARING FEE	0	0	0	0	370	.00
111-0000-313.03-36	HAZARDOUS USE	200	1,850	1,000	1,000	50	5.00
111-0000-313.03-37	TAXI	234	360	800	800	414	51.75

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FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 3 PERMITS, PRIVILEGE FEES							
111-0000-313.03-50	STREET PERMITS	1,590	3,310	2,000	2,000	585	29.25
111-0000-313.04-08	BUILDING	63,157	115,661	100,000	100,000	40,181	40.18
111-0000-313.04-10	ELECTRICAL	322	702	600	600	384	63.93
111-0000-313.04-12	PLUMBING	11,015	23,391	20,000	20,000	10,483	52.41
111-0000-313.04-14	MECHANICAL	14,107	28,146	25,000	25,000	12,582	50.33
111-0000-313.04-15	ELEVATOR	1,400	3,600	3,000	3,000	1,480	49.33
111-0000-313.04-23	OCCUPANCY	150	300	1,500	1,500	700	46.67
111-0000-313.04-32	FIRE PROTECTION	3,390	7,205	7,000	7,000	3,514	50.19
111-0000-313.04-35	GAS	136	363	500	500	306	61.20
111-0000-313.04-37	BUILDING PERMITS - SIGNS	2,120	5,042	4,000	4,000	2,721	68.03
111-0000-313.05-04	LAND USE APPLICATION FEES	15,825	26,675	30,000	30,000	11,875	39.58
111-0000-313.05-06	PLANNING ADVERTISING FEES	275	625	1,000	1,000	250	25.00
111-0000-313.05-07	RE-ZONING & SUBDIV PERMIT	5,650	16,600	10,000	10,000	5,150	51.50
111-0000-313.05-19	SIGNS, PERMITS & INSPECTI	1,000	2,040	3,000	3,000	750	25.00
111-0000-313.05-33	ARCHITECTURAL REVIEW	300	900	600	600	0	.00
111-0000-313.05-34	BOARD OF ZONING APPEALS	2,550	4,600	10,000	10,000	3,000	30.00
111-0000-313.05-40	MISC FEES	650	2,100	2,500	2,500	1,500	60.00
111-0000-313.05-41	CIVIL PENALTIES	600	2,200	1,000	1,000	2,600	260.00
111-0000-313.06-02	RNTL HOUSING/INSPECTIONS	3,395	8,940	35,000	35,000	15,825	45.21
111-0000-313.06-03	RNTL HOUSING/PENALTIES	500	3,425	4,000	4,000	2,600	65.00
111-0000-313.06-05	MISC FEES	1,145	3,023	10,000	10,000	1,709	17.09
* PERMITS, PRIVILEGE FEES		136,060	285,747	297,100	297,100	125,990	42.41
SUB 4 FINES AND FORFEITURES							
111-0000-314.01-01	COURTS	59,240	157,394	300,000	300,000	54,279	18.09
111-0000-314.01-03	REGISTRAR	100	100	0	0	100	.00
111-0000-314.01-10	INTEREST	1,492	3,909	3,000	3,000	1,404	46.81
* FINES AND FORFEITURES		60,832	161,403	303,000	303,000	55,783	18.41
SUB 5 REVENUE-USE OF MONEY/PROP							
111-0000-315.01-01	INTEREST EARNINGS	37,609	65,775	130,000	130,000	20,675	15.90
111-0000-315.02-01	RENTAL - GENERAL PROPERTY	0	500	0	0	0	.00

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FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 5 REVENUE-USE OF MONEY/PROP							
111-0000-315.02-02	RENTAL REC PROP/FACILITY	43,433	143,401	145,000	145,000	50,285	34.68
111-0000-315.02-03	CONCESSION RENTALS	50	50	0	0	0	.00
* REVENUE-USE OF MONEY/PROP		81,092	209,726	275,000	275,000	70,960	25.80
SUB 6 CHARGES FOR SERVICES							
111-0000-316.01-03	SHERIFF FEES	2,949	2,949	3,000	3,000	2,949	98.29
111-0000-316.01-05	CASE ASSESSMENT	11,329	28,781	30,000	30,000	13,524	45.08
111-0000-316.01-09	COURTHOUSE SECURITY FEE	18,554	50,360	60,000	60,000	20,645	34.41
111-0000-316.01-11	MISCELLANEOUS FEES	3,209	8,731	7,000	7,000	3,804	54.34
111-0000-316.01-12	COURTHOUSE COMPLIANCE FEE	15,647	39,757	50,000	50,000	17,699	35.40
111-0000-316.02-01	COMMONWEALTH ATTORNEY FEE	3,105	7,333	6,000	6,000	2,751	45.85
111-0000-316.03-02	MISC POLICE FEES	1,769	3,679	4,000	4,000	3,000	75.00
111-0000-316.03-10	POLICE O/T REIMBURSEMENT	0	17,459	0	0	3,971	.00
111-0000-316.04-03	HAZ/MAT	49,245	61,774	5,000	5,000	205	4.09
111-0000-316.04-05	LEPC FUNDS	0	8,135	7,000	7,000	3,781	54.01
111-0000-316.04-06	ALARM FEES	3,000	3,000	5,000	5,000	0	.00
111-0000-316.04-07	FALSE ALARM FEES	11,100	16,300	20,000	20,000	6,700	33.50
111-0000-316.04-08	FIRE INSPECTION FEES	0	0	50,000	50,000	0	.00
111-0000-316.06-01	ANIMAL IMPOUNDING FEES	903	1,914	2,000	2,000	780	39.00
111-0000-316.06-18	GAS INSPECTION	27,000	54,000	54,000	54,000	27,000	50.00
111-0000-316.08-02	WASTE COLL/DISPOSAL FEES	1,738	3,100	4,000	4,000	1,392	34.80
111-0000-316.08-05	SALE OF RECYCLE MATERIAL	12,553	30,203	50,000	50,000	11,008	22.02
111-0000-316.13-01	RECREATION ACTIVITIES	0	2,900	5,000	5,000	798	15.96
111-0000-316.13-02	INDOOR POOL	38,312	87,010	112,150	112,150	22,993	20.50
111-0000-316.13-06	OUTDOOR POOL	27,601	48,359	91,000	91,000	35,764	39.30
111-0000-316.13-21	ADMISSIONS & MEMBERSHIPS	36,615	98,064	135,000	135,000	38,480	28.50
111-0000-316.13-24	ATHLETICS	21,076	62,440	115,850	115,850	24,817	21.42
111-0000-316.13-26	CHILD CARE	96,560	184,592	180,000	180,000	96,142	53.41
111-0000-316.13-28	CONCESSION SALES	16,416	27,829	28,000	28,000	12,761	45.57
111-0000-316.13-30	PARKS CAPITAL REPL FEES	0	0	0	0	3,479	.00
111-0000-316.13-31	SPECIAL EVENTS	0	0	0	0	210	.00
* CHARGES FOR SERVICES		398,680	848,669	1,024,000	1,024,000	354,650	34.63

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FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 6 CHARGES FOR SERVICES							
111-0000-318.01-01	PAYMENT IN LIEU OF TAXES	425,175	800,175	845,000	845,000	447,915	53.01
111-0000-318.04-01	SPECIAL EVENTS	0	0	155,000	155,000	97,875	63.15
111-0000-318.04-03	OLD TOWN WINCHESTER MISC	0	5,000	0	0	1,100	.00
111-0000-318.04-04	ARTSCAPE PROGRAM	2,550	2,550	1,000	1,000	0	.00
111-0000-318.04-05	OLD TOWN PUBLIC RESTROOM	0	335	0	0	2,004	.00
111-0000-318.98-01	BAD CHECKS	205	455	1,000	1,000	375	37.50
111-0000-318.98-02	ADMIN & COLLECTION FEES	20,792	48,795	40,000	40,000	20,469	51.17
111-0000-318.99-05	SALE OF SUPPLIES	360	769	1,000	1,000	243	24.29
111-0000-318.99-06	SALE OF SURPLUS PROPERTY	0	4,649	10,000	10,000	18,040	180.40
111-0000-318.99-14	SALE OF COPIES & DOCUMENT	256	688	2,000	2,000	262	13.10
111-0000-318.99-22	DONATIONS-FIRE DEPT	0	500	0	0	450	.00
111-0000-318.99-23	DONATIONS-POLICE DEPT.	0	2,870	0	0	0	.00
111-0000-318.99-32	PARKS & RECREATION	317	2,467	60,000	60,000	7,070	11.78
111-0000-318.99-33	SHERIFF	1,250	1,250	0	0	0	.00
111-0000-318.99-99	MISCELLANEOUS	219	262	0	0	182	.00
* MISCELLANEOUS REVENUE		451,124	870,765	1,115,000	1,115,000	595,985	53.45
SUB 9 RECOVERED COSTS							
111-0000-319.02-01	MISCELLANEOUS	571	2,095	0	0	202	.00
111-0000-319.02-05	REBATES	0	2,103	0	0	0	.00
111-0000-319.02-21	PUBLIC WORKS	0	0	0	0	741	.00
111-0000-319.02-22	FIRE DEPARTMENT	124	186	0	0	3,500	.00
111-0000-319.02-24	SOCIAL SERVICES	0	52,875	62,000	62,000	0	.00
111-0000-319.02-34	CIRCUIT COURT	66,811	72,586	70,000	70,000	66,538	95.05
111-0000-319.02-35	JJC BUILDING	78,572	328,187	416,000	416,000	70,035	16.84
111-0000-319.02-40	LANDFILL-RECYCLING	0	165,280	170,000	170,000	0	.00
111-0000-319.02-43	POLICE DEPARTMENT	955	45,265	0	0	490	.00
111-0000-319.02-45	PARKS & RECREATION	233	249	0	0	13	.00
111-0000-319.02-51	DATA PROCESSING	0	54,150	40,000	40,000	0	.00
* RECOVERED COSTS		147,266	722,976	758,000	758,000	141,519	18.67

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FUND 111 GENERAL OPERATING FUND							
BASIC 31 REVENUE FROM LOCAL SOURCE							
SUB 9 RECOVERED COSTS							
**	REVENUE FROM LOCAL SOURCE	29,086,057	66,280,005	67,680,100	67,680,100	30,262,659	44.71
BASIC 32 REVENUE FROM COMMONWEALTH							
SUB 2 NON-CATEGORICAL AID							
	111-0000-322.01-01 ABC PROFITS	0	664	0	0	0	.00
	111-0000-322.01-05 MOBILE HOME TITLING TAXES	180	1,800	0	0	180	.00
	111-0000-322.01-06 TAX ON DEEDS	15,468	76,009	100,000	100,000	22,522	22.52
	111-0000-322.01-08 RAILROAD ROLLING STOCK TX	7,501	7,530	7,000	7,000	8,251	117.87
	111-0000-322.01-10 GRANTOR'S TAX	39,287	71,859	75,000	75,000	26,747	35.66
	111-0000-322.01-11 RENTAL CARS TAX	105,036	186,910	175,000	175,000	94,141	53.79
	111-0000-322.01-12 PERSONAL PROPERTY REIMB.	2,622,084	2,622,084	2,622,100	2,622,100	2,622,084	100.00
*	NON-CATEGORICAL AID	2,789,556	2,966,856	2,979,100	2,979,100	2,773,926	93.11
SUB 3 SHARED EXPENSES							
	111-0000-323.01-01 COMMONWEALTH'S ATTORNEY	283,696	713,945	630,000	630,000	293,013	46.51
	111-0000-323.02-01 SHERIFF	134,992	344,376	300,000	300,000	142,383	47.46
	111-0000-323.02-02 SHERIFF MILEAGE	1,499	2,889	3,000	3,000	3,212	107.08
	111-0000-323.03-01 COMMISSIONER OF REVENUE	51,132	116,055	85,000	85,000	41,889	49.28
	111-0000-323.04-01 TREASURER	29,337	93,697	83,000	83,000	31,617	38.09
	111-0000-323.06-01 REGISTRAR/ELECTORAL BOARD	0	41,755	40,000	40,000	0	.00
	111-0000-323.07-01 CLERK OF CIRCUIT COURT	137,845	367,632	324,000	324,000	142,630	44.02
	111-0000-323.07-02 JURY REIMBURSEMENT	2,670	5,760	5,000	5,000	0	.00
	111-0000-323.10-01 SHARED-VICTIM WITNESS	6,253	25,010	25,000	25,000	6,253	25.01
*	SHARED EXPENSES	647,424	1,711,119	1,495,000	1,495,000	660,997	44.21
SUB 4 STATE CATEGORICAL FUNDS							
	111-0000-324.02-35 DEPT OF HEALTH	0	2,000	0	0	0	.00
	111-0000-324.04-04 JUV & DOMESTIC RELATIONS	2,890	11,848	10,000	10,000	3,306	33.06
	111-0000-324.04-07 LITTER CONTROL	7,575	7,575	6,000	6,000	6,682	111.37
	111-0000-324.04-12 FIRE PROGRAMS FUND	63,042	74,733	70,000	70,000	66,253	94.65
	111-0000-324.04-13 TWO FOR LIFE GRANT	0	23,291	20,000	20,000	0	.00

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ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND							
BASIC 32 REVENUE FROM COMMONWEALTH							
SUB 4 STATE CATEGORICAL FUNDS							
111-0000-324.04-17	HAZ MAT FUNDING	15,000	15,000	24,300	24,300	15,000	61.73
111-0000-324.04-23	POLICE	406,402	775,025	820,000	820,000	406,402	49.56
111-0000-324.04-25	JAIL	21,327	21,327	20,000	20,000	19,098	95.49
111-0000-324.04-42	HEALTH DEPARTMENT	122,931	248,064	252,000	252,000	125,313	49.73
111-0000-324.04-44	GENERAL DISTRICT COURT	1,815	7,684	8,000	8,000	1,971	24.63
111-0000-324.04-98	MISC STATE FUNDS	0	290	0	0	0	.00
111-0000-324.05-23	ASSET FORFEITURE POLICE	1,747	5,430	0	0	5,798	.00
111-0000-324.05-45	ASSET FORFEITURE COMM ATY	627	4,785	0	0	378	.00
111-0000-324.10-38	WIRELESS E911 SERVICE BD	12,518	83,500	49,000	49,000	21,172	43.21
111-0000-324.10-61	PUBLIC ASSISTANCE GRANT	0	90,375	0	0	0	.00
* STATE CATEGORICAL FUNDS		655,874	1,370,927	1,279,300	1,279,300	671,372	52.48
** REVENUE FROM COMMONWEALTH		4,092,854	6,048,902	5,753,400	5,753,400	4,106,295	71.37
BASIC 33 REVENUE FROM FEDERAL GOVT							
SUB 3 CATEGORICAL AID							
111-0000-333.01-13	EMERGENCY SERVICE GRANT	8,905	8,905	0	0	8,905	.00
111-0000-333.01-14	ASSET FORFEITURE FUNDS	183	636	0	0	8,162	.00
111-0000-333.04-15	COMMISSION OF ARTS GRANT	0	5,000	5,000	5,000	5,000	100.00
111-0000-333.06-04	CHILD/ADULT CARE FOOD	2,129	5,407	5,000	5,000	1,617	32.34
111-0000-333.10-11	POLICE - DCJS GRANTS	3,396	16,926	0	0	708	.00
111-0000-333.10-28	JUSTICE ASSISTANCE GRANTS	0	250	0	0	0	.00
111-0000-333.10-30	COPS	51,700	166,136	0	0	0	.00
111-0000-333.10-40	CDBG GRANT	0	125,525	213,000	213,000	321,178	150.79
111-0000-333.10-42	HAZ/MAT EMERGENCY PLANNIN	0	2,476	0	0	0	.00
111-0000-333.10-46	BALLISTIC VEST PROGRAM	0	0	5,000	5,000	2,238	44.75
111-0000-333.10-49	VICTIM WITNESS	18,758	75,032	75,000	75,000	18,758	25.01
111-0000-333.10-55	DMV GRANTS	6,084	25,057	25,000	25,000	6,007	24.03
111-0000-333.10-61	PUBLIC ASSISTANCE GRANT	0	327,529	0	0	0	.00
111-0000-333.10-63	HOMELAND SECURITY/ODP	5,607	43,394	15,000	15,000	5,374	35.82
111-0000-333.10-64	NVRDTF GRANT	20,193	75,657	0	0	0	.00

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND							
BASIC 33 REVENUE FROM FEDERAL GOVT							
SUB 3 CATEGORICAL AID							
*	CATEGORICAL AID	116,956	877,930	343,000	343,000	377,947	110.19

**	REVENUE FROM FEDERAL GOVT	116,956	877,930	343,000	343,000	377,947	110.19
BASIC 34 OTHER FINANCING SOURCES							
SUB 1 NON-REVENUE RECEIPTS							
	111-0000-341.01-01 INSURANCE RECOVERIES	27,433	47,216	0	0	21,244	.00
	111-0000-341.04-04 CDBG LOANS PRINCIPAL	37	1,000,127	0	0	195	.00
	111-0000-341.04-11 CDBG LOANS INTEREST	13	63	0	0	55	.00
	111-0000-341.04-20 PREMIUMS ON BONDS	4,837,787	4,837,787	0	0	1,481,730	.00
	111-0000-341.04-58 SALE OF BONDS	22,125,285	22,125,285	0	0	18,709,518	.00
	111-0000-341.05-27 UTILITIES FUND	800,000	1,600,000	1,600,000	1,600,000	800,000	50.00
	111-0000-341.05-45 OTDB	0	50,000	50,000	50,000	0	.00
	111-0000-341.06-01 FUND BALANCE	0	0	1,084,500	1,084,500	0	.00
	111-0000-341.06-04 ASSIGNED FIRE PROGRAMS	0	0	89,000	89,000	0	.00
	111-0000-341.07-01 SUPPLEMENTAL APPROP	0	0	0	30,000	0	.00
	111-0000-341.07-02 CARRY FORWARD	0	0	3,400,000	3,400,000	0	.00

*	NON-REVENUE RECEIPTS	27,790,555	29,660,478	6,223,500	6,253,500	21,012,743	336.02

**	OTHER FINANCING SOURCES	27,790,555	29,660,478	6,223,500	6,253,500	21,012,743	336.02

***	GENERAL OPERATING FUND	61,086,422	102,867,315	80,000,000	80,030,000	55,759,644	69.67

		61,086,422	102,867,315	80,000,000	80,030,000	55,759,644	69.67

34,123,350

35,568,396 44.46

EXPENDITURES BY DIVISION
FOR FISCAL YEAR 2014
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ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND						
DEPT 11 LEGISLATIVE						
* CITY COUNCIL	58,291	114,936	122,400	122,400	77,553	63.36
* CLERK OF COUNCIL	17,395	37,034	36,600	36,600	19,764	54.00

** LEGISLATIVE	75,687	151,970	159,000	159,000	97,317	61.21
DEPT 12 GENERAL & FINANCIAL ADMIN						
* CITY MANAGER	113,903	299,268	387,000	387,000	188,162	48.62
* CITY ATTORNEY	147,265	283,752	343,400	343,400	131,088	38.17
* INDEPENDENT AUDITORS	48,200	63,700	80,000	80,000	39,050	48.81
* HUMAN RESOURCES	155,629	373,712	453,600	453,600	164,803	36.33
* COMMISSIONER OF REVENUE	233,903	508,317	521,400	521,400	221,245	42.43
* EQUALIZATION BOARD	0	0	0	0	72	.00
* TREASURER	205,546	438,887	439,100	439,100	165,454	37.68
* FINANCE	246,448	508,336	565,000	565,000	211,151	37.37
* INFORMATION TECHNOLOGY	477,393	1,308,607	1,740,800	1,740,800	548,066	31.48
* RISK MANAGEMENT	48,535	48,535	50,000	50,000	45,767	91.53

** GENERAL & FINANCIAL ADMIN	1,676,821	3,833,114	4,580,300	4,580,300	1,714,857	37.44
DEPT 13 BOARD OF ELECTIONS						
* ELECTORAL BOARD OFFICIALS	25,106	60,680	51,000	51,000	18,698	36.66
* REGISTRAR	53,635	104,690	140,600	140,600	55,916	39.77

** BOARD OF ELECTIONS	78,740	165,370	191,600	191,600	74,614	38.94
DEPT 21 COURTS						
* CIRCUIT COURT	36,848	78,101	81,800	81,800	37,132	45.39
* GENERAL DISTRICT COURT	7,798	18,958	28,800	28,800	9,066	31.48
* J & D RELATION DIST COURT	19,143	45,564	50,400	50,400	20,442	40.56
* CLERK OF CIRCUIT COURT	224,039	501,747	503,100	503,100	224,495	44.62
* CITY SHERIFF	488,146	991,391	1,032,400	1,032,400	534,269	51.75
* COURTHOUSE SECURITY	79,823	172,332	173,500	173,500	71,305	41.10
* JUROR SERVICES	20,000	20,000	26,000	26,000	0	.00

** COURTS	875,797	1,828,093	1,896,000	1,896,000	896,708	47.29
DEPT 22 COMMONWEALTH'S ATTORNEY						
* COMMONWEALTH ATTORNEY	501,287	1,095,657	1,085,100	1,085,100	502,765	46.33
* VICTIM WITNESS PROGRAM	64,477	139,874	141,100	141,100	65,365	46.33

EXPENDITURES BY DIVISION
 FOR FISCAL YEAR 2014
 JULY 1, 2013 - DECEMBER 31, 2013

ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND						
DEPT 22 COMMONWEALTH'S ATTORNEY						
** COMMONWEALTH'S ATTORNEY	565,764	1,235,531	1,226,200	1,226,200	568,129	46.33
DEPT 31 LAW ENFORCEMENT & TRAFFIC						
* POLICE DEPARTMENT	3,241,056	7,194,380	7,500,200	7,500,200	3,393,049	45.24
* POLICE GRANTS	171,565	301,207	47,200	47,200	54,087	114.59
** LAW ENFORCEMENT & TRAFFIC	3,412,621	7,495,587	7,547,400	7,547,400	3,447,136	45.67
DEPT 32 FIRE AND RESCUE SERVICES						
* FIRE DEPARTMENT	2,163,264	4,684,185	4,923,700	4,923,700	2,356,332	47.86
* EMERGENCY MEDICAL	27,687	53,697	0	0	40	.00
* FIRE GRANTS	23,824	80,274	203,100	203,100	55,675	27.41
** FIRE AND RESCUE SERVICES	2,214,775	4,818,156	5,126,800	5,126,800	2,412,047	47.05
DEPT 33 CORRECTION AND DETENTION						
* PROBATION OFFICE	972	2,567	3,500	3,500	1,118	31.93
** CORRECTION AND DETENTION	972	2,567	3,500	3,500	1,118	31.93
DEPT 34 INSPECTIONS						
* INSPECTIONS DEPARTMENT	206,723	449,706	466,000	466,000	222,709	47.79
** INSPECTIONS	206,723	449,706	466,000	466,000	222,709	47.79
DEPT 35 OTHER PROTECTION						
* ANIMAL CONTROL	60,642	137,768	165,600	165,600	93,041	56.18
* EMERGENCY SERVICES CD	45,805	77,098	47,000	47,000	26,345	56.05
* HAZARDOUS MATERIAL	31,780	66,397	41,800	41,800	15,845	37.91
* COMMUNICATION OPERATIONS	465,711	898,264	930,100	930,100	446,571	48.01
** OTHER PROTECTION	603,939	1,179,527	1,184,500	1,184,500	581,802	49.12
DEPT 41 MAINT HIGHWAY, STREET ETC						
* STREETS	15,558	29,219	23,600	23,600	12,218	51.77
* STORM DRAINAGE	5,286	35,978	35,000	35,000	17,073	48.78
* LOUDOUN MALL	27,796	51,695	70,800	70,800	40,901	57.77
** MAINT HIGHWAY, STREET ETC	48,639	116,892	129,400	129,400	70,192	54.24
DEPT 42 SANITARY & WASTE REMOVAL						

EXPENDITURES BY DIVISION
 FOR FISCAL YEAR 2014
 JULY 1, 2013 - DECEMBER 31, 2013

ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND						
DEPT 42 SANITARY & WASTE REMOVAL						
* REFUSE COLLECTION	608,195	1,315,126	1,388,300	1,388,300	631,963	45.52

** SANITARY & WASTE REMOVAL	608,195	1,315,126	1,388,300	1,388,300	631,963	45.52
DEPT 43 MAINT GENERAL BLDG/GROUND						
* JOINT JUDICIAL CENTER	202,548	515,138	705,400	705,400	222,476	31.54
* FACILITIES MAINTENANCE	545,106	1,094,213	1,117,300	1,117,300	522,971	46.81

** MAINT GENERAL BLDG/GROUND	747,654	1,609,351	1,822,700	1,822,700	745,446	40.90
DEPT 53 WELFARE/SOCIAL SERVICES						
* ELDERLY - PROP TAX RELIEF	0	496,565	520,000	520,000	0	.00

** WELFARE/SOCIAL SERVICES	0	496,565	520,000	520,000	0	.00
DEPT 71 PARKS & RECREATION						
* SUPERVISION PARKS & REC	202,677	454,602	567,700	567,700	218,318	38.46
* SPECIAL EVENTS TROLLEY	0	0	0	0	3,574	.00
* MAINTENANCE	882,482	1,326,365	971,430	971,430	471,208	48.51
* COMMUNITY REC PROGRAMS	40,217	75,651	73,100	73,100	35,609	48.71
* OUTDOOR SWIMMING POOL	61,911	106,824	110,600	110,600	57,251	51.76
* INDOOR POOL	74,168	161,304	226,450	226,450	77,363	34.16
* WAR MEMORIAL & ADDITIONS	185,390	386,838	377,825	377,825	151,517	40.10
* SCHOOL AGE CHILD CARE	80,848	170,973	183,650	183,650	82,944	45.16
* ATHLETIC PROGRAMS	83,018	174,639	199,525	199,525	84,647	42.42

** PARKS & RECREATION	1,610,710	2,857,196	2,710,280	2,710,280	1,182,431	43.63
DEPT 72 CULTURAL ENRICHMENT						
* APPLE BLOSSOM FESTIVAL	0	55,996	29,500	29,500	0	.00

** CULTURAL ENRICHMENT	0	55,996	29,500	29,500	0	.00
DEPT 81 PLANNING & COMMUNITY DEVL						
* PLANNING DEPARTMENT	96,163	227,002	278,900	278,900	127,620	45.76
* REDEVELOPMENT & HOUSING	117,389	1,087,168	21,500	21,500	9,442	43.92
* ZONING DEPARTMENT	53,375	141,175	211,200	241,200	85,394	35.40
* ECONOMIC DEVELOPMENT	162,458	1,384,953	799,500	799,500	100,263	12.54
* OLD TOWN WINCHESTER ADMIN	82,213	292,870	437,100	437,100	209,828	48.00
* GIS	43,332	81,259	89,300	89,300	40,745	45.63

EXPENDITURES BY DIVISION
 FOR FISCAL YEAR 2014
 JULY 1, 2013 - DECEMBER 31, 2013

ACCOUNT DESCRIPTION	FY 2013 YTD 7/1 - 12/31	FY 2013 Year-end Actual	FY 2014 Approved Budget	FY 2014 Amended Budget	FY 2013 7/1 - 12/31	FY 2014 % of Budget Realized
FUND 111 GENERAL OPERATING FUND						
DEPT 81 PLANNING & COMMUNITY DEVL						
** PLANNING & COMMUNITY DEVL	554,930	3,214,427	1,837,500	1,867,500	573,292	30.70
DEPT 91 NONDEPARTMENTAL						
* OTHER	69,475	456,937	588,144	588,144	74,657	12.69
* OUTSIDE AGENCIES	122,857	182,713	282,713	282,713	122,951	43.49
* REGIONAL AGENCIES	2,371,446	4,862,867	5,065,041	5,065,041	3,251,282	64.19
DEPT 93 TRANSFERS						
** NONDEPARTMENTAL	2,563,777	5,502,517	5,935,898	5,935,898	3,448,889	58.10
* INTERFUND	11,155,126	30,493,422	33,989,702	33,989,702	13,201,101	38.84
DEPT 95 DEBT SERVICE						
** TRANSFERS	11,155,126	30,493,422	33,989,702	33,989,702	13,201,101	38.84
* DEBT	31,869,406	36,195,347	9,255,420	9,255,420	5,288,852	57.14
** DEBT SERVICE	31,869,406	36,195,347	9,255,420	9,255,420	5,288,852	57.14
*** GENERAL OPERATING FUND	58,870,276	103,016,460	80,000,000	80,030,000	35,158,605	43.93
	58,870,276	103,016,460	80,000,000	80,030,000	35,158,605	43.93

2013 Fire and Rescue Department Statistics

Month	Incidents											Casualties		Training Hours		Resuscitation Efforts	
	EMS	Fire	Total	Struc. Fire	Fire Other	ALS 1	ALS 2	BLS	Pt. Ref.	Mutual Aid Given	Mutual Aid Recvd.	Fire	Civ.	Dept. Personnel	LFCC Ride-Along Students	Cardiac Arrest	Cardiac Arrest Saved
January	349	96	445	5	91	160	2	137	21	50	13	1	0	935	0	1	1
February	309	65	374	2	63	138	1	109	25	18	13	0	1	424	0	2	1
March	390	103	493	7	96	171	6	161	23	40	7	0	1	879	12	4	2
April	333	95	428	3	92	153	3	130	19	27	15	1	0	872	282	1	0
May	388	113	501	5	108	144	5	144	30	35	11	1	2	410	54	3	1
June	341	112	453	8	104	134	4	150	31	39	10	0	3	386	0	4	1
July	388	106	494	7	99	170	7	137	29	39	15	0	0	1444	0	4	1
August	357	105	462	6	99	175	2	123	27	25	6	2	0	1467	0	1	0
September	373	82	455	3	79	187	10	124	27	23	10	0	0	1481	0	6	3
October	346	118	464	4	114	151	7	140	26	35	6	0	1	876	0	5	1
November	351	103	454	9	94	152	5	123	28	33	16	0	0	611	0	4	0
December	416	118	534	2	116	192	10	144	20	37	12	1	0	808	0	3	0
TOTAL	4341	1216	5557	61	1155	1927	62	1622	306	401	134	6	8	10592	348	38	11

28.95%
26.3% National Average

10 Years of Incidents											
2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
4932	5288	5711	5673	5571	5365	5407	5539	5541	5756	5557	

Other Monthly Activity:



Vehicle Extrication Training



Friendship Fire Company Honored at the Iwo Jima Memorial

FY 2014 EMS Revenue Recovery Statistics

	Total billed	Payment Adj.	Net Collectable	Total paid by insurance	Patient Payment	Refunds	Total Deposit	Total Revenue	Increase from FY2012	Percent Increase From FY2012
JULY	\$162,940.00	\$24,446.29	\$138,493.71	\$77,877.66	\$11,029.60	\$0.00	\$88,907.26	\$88,907.26	\$6,999.94	9%
AUGUST	\$154,507.00	\$7,921.18	\$146,585.82	\$73,522.65	\$6,533.14	\$786.97	\$79,268.82	\$168,176.08	\$561.43	0%
SEPTEMBER	\$168,585.00	\$10,688.87	\$157,896.13	\$66,236.78	\$0.00	\$309.00	\$65,927.78	\$234,103.86	(\$3,789.67)	-2%
OCTOBER	\$154,659.00	\$0.00	\$154,659.00	\$100,980.62	\$1,880.64	\$0.00	\$102,861.26	\$336,965.12	\$11,830.10	4%
NOVEMBER	\$143,059.00	\$0.00	\$143,059.00	\$81,167.99	\$1,831.47	\$1,066.84	\$81,932.62	\$418,897.74	\$16,923.43	4%
DECEMBER	\$187,121.00	\$0.00	\$187,121.00	\$94,435.19	\$4,102.04	\$595.67	\$97,941.56	\$516,839.30	\$43,855.25	9%
JANUARY										
FEBRUARY										
MARCH										
APRIL										
MAY										
JUNE										
TOTALS	\$970,871.00	\$43,056.34	\$927,814.66	\$494,220.89	\$25,376.89	\$2,758.48	\$516,839.30			



2013 Fire Marshal Division Statistics

Month	City Fire Property Dollar Loss/Save			Plan Review		Inspections/Investigations								Public Education			
	Loss	Value	Saved	#	Revenue	Fire Insp.	Follow-up	Sprinkler	Alarm	Supres.	Site	Other Insp.	Investig.	Smoke Alarms Installs	Car Seat Installs	Pub Ed Children	Pub Ed Adult
January	\$100.00	\$175,000.00	\$174,900.00	2	\$75.99	10	18	2	3	1	1	0	0	0	13	2	17
February	\$600.00	\$107,000.00	\$106,400.00	9	\$0.00	16	9	3	0	0	0	0	1	2	10	64	53
March	\$0.00	\$0.00	\$0.00	11	\$758.30	14	18	8	0	1	2	42	0	4	8	15	40
April	\$26,100.00	\$111,100.00	\$85,000.00	5	\$214.20	38	26	2	0	0	0	21	2	1	4	2	8
May	\$105,500.00	\$148,400.00	\$42,900.00	14	\$1,239.86	8	9	5	1	3	0	23	1	1	11	143	43
June	\$98,000.00	\$17,846,200.00	\$17,748,200.00	6	\$517.16	15	14	4	3	3	3	10	3	1	3	113	19
July	\$7,250.00	\$8,100.00	\$850.00	14	\$1,159.18	14	19	3	4	1	1	7	3	1	14	48	20
August	\$309,262.00	\$1,469,204.00	\$1,159,942.00	3	\$68.34	16	20	4	1	4	1	13	2	7	13	219	332
September	\$14,000.00	\$28,337,600.00	\$28,323,600.00	11	\$765.00	38	18	4	0	2	0	6	3	1	19	137	101
October	\$31,550.00	\$2,313,150.00	\$2,281,600.00	6	\$363.12	54	37	7	0	0	0	20	1	0	11	2668	1629
November	\$84,050.00	\$756,050.00	\$672,000.00	6	\$433.50	12	44	1	0	2	0	5	1	1	11	635	71
December	\$95,400.00	\$245,500.00	\$150,100.00	5	\$153.00	5	14	3	2	5	0	3	0	0	12	1	15
TOTAL	\$771,812.00	\$51,517,304.00	\$50,745,492.00	92	\$5,747.65	240	246	46	14	22	8	150	17	19	129	4047	2348



2013 Station/Apparatus Statistics

Month	Station Logbook Runs			
	1	2	4	5
January	174	73	151	196
February	148	71	122	180
March	188	80	180	215
April	164	80	161	203
May	173	72	157	226
June	168	77	137	218
July	202	89	152	229
August	183	72	156	194
September	168	76	148	221
October	176	80	147	216
November	189	82	136	205
December	191	111	186	272
TOTAL	2124	963	1833	2575



A Virginia Accredited Law Enforcement Agency

Timbrook Public Safety Center
231 East Piccadilly Street
Winchester, VA 22601

Telephone: (540) 545-4700
FAX: (540) 542-1314
Website: www.winchesterva.gov

WINCHESTER POLICE DEPARTMENT
MONTHLY COUNCIL REPORT
December 2013

5 YEAR TREND FOR MAJOR CRIMES- December

Table with 5 columns (2009-2013) and 6 rows (THEFT, GRAND THEFT, MVT, ROBBERY, RAPE, B&E)

5 YEAR TREND ENFORCEMENT -Enforcement for December - 5 year trend

Table with 7 columns (2009-2013) and 15 rows of enforcement categories

Up-to-date statistics can be found at www.winchesterpolice.org/crimestats/index1.html and up-to-date crime maps are available at www.winchesterpolice.org/crimemap/index1.html.

*New category added

“Committed to improving the quality of life for all people by preventing crime in the city.”